

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719  
5 Plaintiff, -  
6 v. - Toledo, Ohio  
7 MOHAMMAD ZAKI AMAWI, et al., - June 10, 2008  
8 Defendants. - Trial  
9 -----

10 VOLUME 64, TRANSCRIPT OF TRIAL  
11 BEFORE THE HONORABLE JAMES G. CARR  
12 UNITED STATES DISTRICT CHIEF JUDGE, AND A JURY

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23 Proceedings recorded by mechanical stenography, transcript  
24 produced by notereading.  
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**1** (Reconvened at 8:40 a.m.)

00:01:11 **2** THE COURT: Are we ready to go?

00:01:13 **3** MR. HARTMAN: We are ready to go, Judge. I expect

-08:-39:-30 **4** it will take about two hours. I'm wondering if it's okay, if I

00:01:21 **5** sense a need, to ask for a ten-minute break in the middle.

00:01:24 **6** THE COURT: It's up to you.

-08:-39:-30 **7** MR. HARTMAN: Thank you.

00:03:28 **8** (Jury enters the courtroom.)

00:03:29 **9** THE COURT: It's now Mr. Hartman's time and

-08:-39:-30 **10** opportunity to present his closing argument on behalf of

-08:-39:-30 **11** Mr. El-Hindi.

00:03:37 **12** MR. HARTMAN: Thank you, Judge.

00:03:39 **13** THE COURT: I remind you, as I've said so many

00:03:42 **14** times before, the arguments of counsel are not evidence.

00:03:45 **15** They're statements of counsel, of what they think the evidence

00:03:51 **16** shows and the verdict you should reach.

00:03:54 **17** MR. HARTMAN: Thank you. Good morning. I want

00:03:57 **18** to start this by telling you simply that Marwan El-Hindi is not

-08:-39:-30 **19** guilty. He's not guilty of any of the crimes that he's accused

-08:-39:-30 **20** of. He never joined any conspiracy and never had any intent

00:04:17 **21** that the things he showed or e-mailed to Darren Griffin be used

-08:-39:-30 **22** to kill American servicemen. And the government didn't prove

-08:-39:-30 **23** it.

00:04:34 **24** Just like I told you in my opening statement, with

-08:-39:-30 **25** respect to Marwan, nothing happened, and nothing was about to

-08:-39:-30 **1** happen.

-08:-39:-30 **2** Now, like you, I've listened to the recordings in  
-08:-39:-30 **3** this case. I'm going to talk to you about our perspective on  
-08:-39:-30 **4** what the evidence showed. If I speak too fast for anybody,  
00:05:02 **5** please feel free to raise your hand and slow me down. I tend  
-08:-39:-30 **6** to speak a little fast when I get nervous or when I'm passionate  
00:05:11 **7** about something. I can tell you right now I'm very nervous  
-08:-39:-30 **8** about this. I'm nervous because I'm afraid that I won't be able  
-08:-39:-30 **9** to effectively explain to you what we think the evidence showed.  
-08:-39:-30 **10** And I don't want to miss anything, so I'm going to refer to my  
-08:-39:-30 **11** notes a lot. But I'm worried that I won't be able to articulate  
00:05:40 **12** all the reasons that I think Marwan's not guilty and that I  
00:05:46 **13** think the government didn't prove he is.

00:05:50 **14** I'm also passionate about this. This is a very,  
00:05:58 **15** very important matter. We want to thank you all for serving.  
00:06:04 **16** It's important obviously to Marwan, but it's important to all of  
-08:-39:-30 **17** us because your decision in this case is going to say a lot  
00:06:19 **18** about us, about what we value in this country, about how we do  
00:06:27 **19** things, and about how we treat people who are different.

00:06:37 **20** The fact is, there was no conspiracy here,  
-08:-39:-30 **21** especially as far as Marwan's concerned. What there was is the  
00:06:47 **22** illusion of a conspiracy. It's an illusion that was created by  
00:06:53 **23** Darren Griffin and accepted by the United States Government.  
00:07:00 **24** It's wrong what's happening here. What's happening to Marwan is  
-08:-39:-30 **25** wrong. I believe it's an assault on his rights, and by an

-08:-39:-30 **1** extension, it's an assault on mine and yours and everyone's.

00:07:23 **2** I'll explain why as I go through this.

00:07:26 **3** Now, the government keeps telling you this is a

00:07:29 **4** terrorism case, and there's a reason they keep telling you that.

-08:-39:-30 **5** It's because they want you to be afraid. They figure the more

-08:-39:-30 **6** you are afraid, the more you'll support this charade that Darren

00:07:51 **7** Griffin created and that they've presented to you. We know that

-08:-39:-30 **8** they want you to be afraid because why else would they go

-08:-39:-30 **9** through those pictures and files on this computer and point out

-08:-39:-30 **10** the fact of the people who were in it? Does it change the

-08:-39:-30 **11** evidence that there was a picture of -- I can't pronounce it --

-08:-39:-30 **12** Abu Musab Al Zaraqawi on a website? It doesn't change the

00:08:27 **13** words, and the videos; it doesn't change the actions. It

-08:-39:-30 **14** doesn't have anything to do with the evidence, who these people

-08:-39:-30 **15** are, but they have scary names. Ayman Al Zawahiri, Osama Bin

-08:-39:-30 **16** Laden; all of these things are designed to get a reaction out of

-08:-39:-30 **17** you, but it doesn't have anything to do with why we're here

-08:-39:-30 **18** today.

00:08:55 **19** The reason we're here is for you to decide what

00:08:58 **20** Marwan did or didn't do, what all these defendants did or didn't

-08:-39:-30 **21** do. It reminds me actually of the old color-coded terror

-08:-39:-30 **22** threat system that the government used to use. I don't know

-08:-39:-30 **23** what happened to it, but do you remember when they used to come

-08:-39:-30 **24** out every day and say the threat level today has changed from

00:09:23 **25** orange to pink, which made us all keenly aware of absolutely

-08:-39:-30 **1** nothing until the day they came and told us that, well, it's now  
-08:-39:-30 **2** orange, so go buy all the duct tape and plastic sheeting you can  
-08:-39:-30 **3** buy. And we did. We had no idea why, but we did it.

00:09:45 **4** Yes, this is a case about terrorism in a sense, but  
-08:-39:-30 **5** it's about more than that. It's about our rights, yours and  
-08:-39:-30 **6** mine, as well as the defendants'. It's about how we treat  
-08:-39:-30 **7** people who are different than we are. Specifically, it's about  
-08:-39:-30 **8** how the government treats Muslims in post 9/11 America. And I  
00:10:16 **9** think it's important that we acknowledge that. It's also about  
-08:-39:-30 **10** what the government likes to call the war on terrorism.

00:10:27 **11** Now, one of the first things that I thought of when  
-08:-39:-30 **12** I started working on this case three or four lifetimes ago was  
00:10:38 **13** how are we going to get a fair trial? How do you get a fair  
-08:-39:-30 **14** trial for a Muslim who's from the Middle East who looks like  
-08:-39:-30 **15** Marwan does in middle America? I really worried about that.  
00:10:59 **16** And the first question was, can we get a fair jury? I believe  
-08:-39:-30 **17** we've done that. I know it took a long time; it was kind of a  
-08:-39:-30 **18** hard process, but in the selection process I think you were all  
00:11:11 **19** candid, and frankly I personally am very confident in your  
-08:-39:-30 **20** ability to sit here and judge my client. And he is too.

00:11:27 **21** I will also acknowledge you folks have been,  
-08:-39:-30 **22** without a doubt, the most attendant jury I've ever seen. I  
00:11:37 **23** watched you look very carefully at the exhibits, listen very  
-08:-39:-30 **24** closely to witnesses. A lot of you took notes. You even  
-08:-39:-30 **25** raised your hand sometimes and said: Wait a minute, what was

-08:-39:-30 **1** that exhibit number, ,or what was that name? And that means a  
00:11:53 **2** lot. I can't tell you how much that means to Marwan. Because  
00:11:59 **3** before the end of the day, his fate is going to be in your  
00:12:02 **4** hands.

00:12:04 **5** I can tell you what it means to me that you were so  
00:12:08 **6** attentive. And I appreciate it more than you'll know because I  
-08:-39:-30 **7** think it means you know the evidence; you know all the evidence  
-08:-39:-30 **8** that you have seen.

00:12:20 **9** Now, it was almost a week ago now, but the  
-08:-39:-30 **10** government spent last Wednesday and part of Thursday presenting  
-08:-39:-30 **11** a very, very compelling argument to you about guilt, and that's  
-08:-39:-30 **12** not surprising because Mr. Sofer is a very good lawyer. He  
-08:-39:-30 **13** knows what he's doing. But when I sat over there in that  
-08:-39:-30 **14** chair, and I listened to closing argument, there were so many  
-08:-39:-30 **15** times I wanted to jump up, and I wanted to say, wait a minute,  
00:12:56 **16** that's not all that witness said. I wanted to stand up and  
-08:-39:-30 **17** say, Your Honor, I object; that little piece of tape that was  
00:13:05 **18** just played takes this thing totally out of context. But I  
-08:-39:-30 **19** didn't do that. Frankly, I'm not that kind of lawyer. And  
-08:-39:-30 **20** everybody gets their say, and that's fair. So I sat there and  
-08:-39:-30 **21** waited for my turn. And now I can tell you what I really  
-08:-39:-30 **22** think.

00:13:25 **23** What I really think is that I wanted to yell and  
-08:-39:-30 **24** scream about the way the government presented that evidence.  
00:13:32 **25** It was a snippet here, a little bit there, a cut from here.



-08:-39:-30 **1** What I think they gave you was the greatest cut and paste job in  
-08:-39:-30 **2** the history of courtroom trials. I don't think it was a fair  
-08:-39:-30 **3** representation of what the evidence actually is. In fact, I  
-08:-39:-30 **4** think it was a bit of manipulation of what the evidence actually  
-08:-39:-30 **5** is. That's why I'm so glad you folks were paying attention so  
00:14:00 **6** closely. Because what you got from the government wasn't the  
-08:-39:-30 **7** whole story, and it wasn't the big picture. And in order for  
-08:-39:-30 **8** you to fairly judge Marwan, you need to look at the big picture.  
-08:-39:-30 **9** You know the way that the government ran those  
00:14:24 **10** clips together without being completely clear about the date and  
-08:-39:-30 **11** what time and how much time was in between the clips, and they  
-08:-39:-30 **12** ran so fast. I know they had a lot to cover, and they wanted to  
-08:-39:-30 **13** get it done quickly, so maybe that's the reason why they did  
-08:-39:-30 **14** that, but do you know what it reminded me of? Remember that  
00:14:47 **15** video that we saw a couple of times of all those American  
00:14:51 **16** ministers and politicians talking about Muslims and talking  
-08:-39:-30 **17** about Islam? That video made it look like this entire country  
00:15:02 **18** had a wild hatred for people of the Islamic faith. It really  
-08:-39:-30 **19** did. Now, you and I know that's not true, that's not how we  
-08:-39:-30 **20** are. But that's what that video made it look like.  
00:15:34 **21** It occurred to me, as I was thinking about the  
-08:-39:-30 **22** government's closing and preparing my own to give you folks that  
00:15:46 **23** the way that that was kind of hacked and slashed and given to  
00:15:56 **24** you reminded me a lot of the way that Darren Griffin manipulated  
-08:-39:-30 **25** people, including the government, through the course of the

00:16:09 **1** investigation and in the way he testified. And I'll give you  
-08:-39:-30 **2** an example. Mr. Griffin testified that Marwan called him out  
-08:-39:-30 **3** of the blue on June 23, 2004; "out of the blue;" those were his  
00:16:24 **4** words.

00:16:26 **5** Mr. Sofer told you last Wednesday that Marwan did  
-08:-39:-30 **6** indeed call Mr. Griffin on June 23, 2004, and he did. But  
-08:-39:-30 **7** that's only part of the picture, because if you recall the whole  
-08:-39:-30 **8** recording shows that Marwan was returning the call to Griffin  
00:16:48 **9** from the same day, and, in fact, Mr. Griffin tried three times  
00:16:53 **10** to call Marwan that day. And you can ask the Judge in your  
00:17:00 **11** deliberations to listen to that entire recording. Mr. Griffin  
-08:-39:-30 **12** said he got called out of the blue. He sat there, and he lied  
00:17:07 **13** to you.

00:17:10 **14** Mr. Sofer didn't lie to you. I'm not suggesting he  
-08:-39:-30 **15** did. But it wasn't the whole story. It wasn't the big  
00:17:20 **16** picture.

00:17:25 **17** Another example is about two wire transfers the  
-08:-39:-30 **18** government told you about that went from Mohammad Ahmed to  
00:17:35 **19** Marwan's bank account. One was for \$10,000; one was for  
-08:-39:-30 **20** \$8,000. Now, you know, because we have stipulated, we agreed  
-08:-39:-30 **21** with the government, that the expenses from the trip to Egypt to  
-08:-39:-30 **22** go bring back Zubair and Khaleel Ahmed, that those expenses were  
-08:-39:-30 **23** reimbursed by Zubair's father Mohammad, and that's what the  
-08:-39:-30 **24** \$8,000 wire was.

00:18:07 **25** They also told you about the \$10,000 wire. They

-08:-39:-30 **1** made it sound like Marwan was taking advantage of Mr. Ahmed by  
-08:-39:-30 **2** taking his money because then he was going to further whatever  
00:18:23 **3** quest -- he, being Marwan, was going to further whatever quest  
-08:-39:-30 **4** these boys were on. Well, if you recall the testimony,  
00:18:32 **5** Zubair's sister, Yasmin, utilized EMSS and actually went to  
00:18:38 **6** medical school over in Europe. And you heard her on a  
00:18:41 **7** recording, the conversation between Marwan and Mr. Griffin, that  
-08:-39:-30 **8** the fee for that service is \$10,000. And that's what that wire  
-08:-39:-30 **9** transfer was. EMSS didn't get to keep that whole fee. Marwan  
-08:-39:-30 **10** said that on the recording. But that's all it was. And you  
00:19:04 **11** weren't told any of that. It's the big picture that's  
-08:-39:-30 **12** important.  
00:19:15 **13** Now, before we get into this any further, I want to  
-08:-39:-30 **14** talk to you about Marwan. Take a look at Marwan. Stand up.  
-08:-39:-30 **15** I know it's tough for some of you to see because of the screen,  
-08:-39:-30 **16** but you've been seeing him for two months now. He's different  
-08:-39:-30 **17** than we are. And it's okay to acknowledge that. He's a  
00:19:43 **18** little darker skinned; he wears a long beard. He comes from a  
-08:-39:-30 **19** place that is unknown to most of us, and you know from the  
00:19:56 **20** recordings that he speaks with a pretty heavy accent. He's a  
-08:-39:-30 **21** Muslim. He prays five times a day; he goes to the Mosque a  
-08:-39:-30 **22** couple times a week, and that makes him different than most of  
-08:-39:-30 **23** us too. But he's also human. He's a husband, he's a father,  
-08:-39:-30 **24** he's an American citizen, and he's entitled to all the rights  
-08:-39:-30 **25** that you and I have.

00:20:34 **1** Before all this began, who was Marwan? Well, he  
-08:-39:-30 **2** was an immigrant. He was born in Jordan, came over here in the  
-08:-39:-30 **3** mid '80s to go to school. He liked it, and he stayed. The  
-08:-39:-30 **4** land of opportunity, after all.  
00:20:55 **5** He said -- you heard him on the recording say he  
-08:-39:-30 **6** liked it here. He thought this was a peaceful country. And  
-08:-39:-30 **7** what he was doing was the best he could to raise his children  
00:21:07 **8** the best way he knew how. It was made clear several times on  
-08:-39:-30 **9** the recordings that that was the most important thing in his  
00:21:17 **10** life. In fact, in one recording, I don't remember what the  
00:21:21 **11** date was, but he told Griffin that that was his jihad, his  
-08:-39:-30 **12** struggle, raising his kids the Islamic way.  
00:21:30 **13** Now, other than his kids and his religion, his  
00:21:37 **14** other primary interest was business, as you heard, of almost any  
-08:-39:-30 **15** form or fashion. But he worked primarily, once this started,  
-08:-39:-30 **16** for EMSS. I don't know if we've told you it's European Medical  
00:21:52 **17** Studies and Services; that's what that stands for. He worked  
-08:-39:-30 **18** primarily for EMSS recruiting young American kids to go over to  
00:22:00 **19** eastern Europe and go to medical school. Now, an interesting  
-08:-39:-30 **20** question is: Who was Marwan on the day he was arrested? Well,  
-08:-39:-30 **21** he was pretty much the exact same person. He was raising his  
00:22:20 **22** kids; he was working for EMSS; he was adhering to his religion,  
-08:-39:-30 **23** and he had little or no contact with Darren Griffin, or with  
00:22:34 **24** Wassim Mazloun and Mohammad Amawi, by the way. He also had no  
-08:-39:-30 **25** plan or intent to further anything or do anything illegal on the

-08:-39:-30 **1** day he was arrested.

00:22:54 **2** Can you put up that instruction for me?

00:22:58 **3** Now, you've seen this because the government or the

-08:-39:-30 **4** Judge read it to you, but I want to show you again because it's

-08:-39:-30 **5** important. The government has the burden to prove these

00:23:12 **6** charges against the defendants beyond a reasonable doubt. That

-08:-39:-30 **7** burden stays with the government from start to finish. We

-08:-39:-30 **8** didn't and don't have to prove anything. That's a very

-08:-39:-30 **9** important part of our system. That's on page five of your jury

00:23:34 **10** instructions. What that means is even as he sits here today,

-08:-39:-30 **11** he's an innocent man unless you decide otherwise. And your

-08:-39:-30 **12** decision has to be based on what the government tells you.

-08:-39:-30 **13** It's their burden.

00:23:56 **14** Now, the government told you several things in its

-08:-39:-30 **15** opening argument. They said the best evidence would be the

-08:-39:-30 **16** defendant's own words. And in Marwan's case, that is

-08:-39:-30 **17** absolutely true. But it's not just the few words that the

-08:-39:-30 **18** government wanted you to listen to and played to you last week.

-08:-39:-30 **19** It's all of his words. It's the big picture. I'm not going

-08:-39:-30 **20** to go through 30 hours of clips that you already heard because I

-08:-39:-30 **21** think you were attentive and understood them. And I'm not even

-08:-39:-30 **22** going to go through and pick out the highlights, the things that

-08:-39:-30 **23** we think are best, smash them together and play them for you.

-08:-39:-30 **24** Again, I believe you understand the evidence. But, to the

-08:-39:-30 **25** extent you have any question about any of these recordings, just

-08:-39:-30 **1** like Mr. Sofer did, I would encourage you to ask the Judge to  
00:25:04 **2** let you listen to them again while you're deliberating. If you  
-08:-39:-30 **3** think you need to do that, you have a right to do that, and we  
-08:-39:-30 **4** both encourage you to do that. But I would encourage you to  
-08:-39:-30 **5** make sure that you listen to them in their entirety. So you  
-08:-39:-30 **6** get the big picture, so you get the context of what's being  
-08:-39:-30 **7** said. Specifically I would encourage you to do that because of  
-08:-39:-30 **8** the way they were presented here last week.  
00:25:39 **9** Here's the other part, the other part of the best  
-08:-39:-30 **10** evidence. In order to look at the big picture, you've got to  
00:25:48 **11** consider Darren Griffin's words too. You have to consider the  
00:25:51 **12** things that he said and did when you're deciding whether the  
-08:-39:-30 **13** government proved the elements against Marwan. I believe it is  
00:26:08 **14** an indisputable fact that if it weren't for Darren Griffin, none  
-08:-39:-30 **15** of this would have happened. In fact, these three men may  
-08:-39:-30 **16** never have been in the same room together. They may never have  
-08:-39:-30 **17** met except for Darren Griffin. Mr. Griffin admitted that  
-08:-39:-30 **18** Marwan didn't know either one of these guys before he introduced  
-08:-39:-30 **19** them, and that didn't happen until February 2, 2005, in the case  
-08:-39:-30 **20** of Mr. Amawi; and February 16, 2005, in the case of Mr. Mazloun.  
00:26:51 **21** He admitted that he brought these men together. He admitted  
-08:-39:-30 **22** that on February 2 he and Marwan were at a CopyMax, and they  
-08:-39:-30 **23** were burning CDs for EMSS, and it was his idea to drop by Mr.  
-08:-39:-30 **24** Amawi's house. And you can tell from the recording that he  
00:27:18 **25** wasn't expected. This was a drop-in. And within almost a

-08:-39:-30 **1** minute of getting to that house, Mr. Griffin said: Hey, is your  
00:27:32 **2** computer booted up? I want to show Marwan some of the sites.  
-08:-39:-30 **3** Griffin had never watched any videos or anything like that with  
-08:-39:-30 **4** Marwan before this happened. So he took him to Mr. Amawi's  
-08:-39:-30 **5** house and put them together.  
00:27:51 **6** You know the other thing to keep in mind is we  
00:27:55 **7** don't have the recording from CopyMax, and the reason is because  
-08:-39:-30 **8** Darren Griffin didn't turn it on. He had the power to turn the  
00:28:09 **9** recorder on and off whenever he wanted. That means if there  
-08:-39:-30 **10** was innocent conversation, he didn't have to turn the recording  
00:28:21 **11** on. When he did turn that recording on, he was the only one  
-08:-39:-30 **12** who knew that he was actually making recordings for a later  
00:28:33 **13** audience, for you, and he used that to his advantage to make  
-08:-39:-30 **14** things sound a certain way, and to make people say certain  
00:28:48 **15** things.  
-08:-39:-30 **16** Now, he also admitted that it was his idea to bring  
00:28:56 **17** Wassim to Marwan's house for dinner on February 16. You heard  
-08:-39:-30 **18** the tape. Wassim didn't even know they were going there. He  
-08:-39:-30 **19** thought they were going to the shooting range. Again, this is  
00:29:09 **20** Griffin purposely putting these three men together so he can  
00:29:17 **21** create this illusion of a conspiracy between them. He admitted  
-08:-39:-30 **22** that once he had them together, it was his idea to form a cell.  
-08:-39:-30 **23** I think he was the only one who ever used that word or talked  
-08:-39:-30 **24** about that concept. But he put these guys together, and once  
-08:-39:-30 **25** he had them together, it was clear from the recordings you could

-08:-39:-30 **1** hear the way he pushed, and pushed, and pushed.

-08:-39:-30 **2** You not only heard some of it on the recordings,

-08:-39:-30 **3** but he admitted on the stand some of the things that he did.

-08:-39:-30 **4** He brought up topics and changed subjects on a dime to get

00:30:15 **5** people talking about training or jihad. He asked a lot of

-08:-39:-30 **6** people and was always encouraging people to go to the shooting

-08:-39:-30 **7** range with him. He admitted that he kept talking about things

00:30:31 **8** like training and jihad, even though people weren't listening to

-08:-39:-30 **9** him. He admitted that. He admitted that he was ambiguous, so

-08:-39:-30 **10** much so that the FBI sometimes had to tell him to be more clear.

-08:-39:-30 **11** Now, when it comes to training, he said he tried to be spot-on,

00:30:52 **12** that's his word, "spot-on" about that.

-08:-39:-30 **13** But you and I know that's not true because we heard

-08:-39:-30 **14** the recordings. And actually on cross-examination by Mr. Boss,

-08:-39:-30 **15** Griffin later admitted that the whole concept of training got

00:31:09 **16** ambiguous, too, in the conversations. He would dominate

00:31:16 **17** conversations; he would interrupt people; he would steer the

-08:-39:-30 **18** subject matter. And he did this in an effort to get people to

00:31:25 **19** say things; not to see what they would say, to get them to say

00:31:32 **20** things. And that was clear even from what the government

00:31:37 **21** played for you.

00:31:44 **22** He admitted that he was the one who finally brought

-08:-39:-30 **23** up illegal concepts. He was the one who brought up explosives

-08:-39:-30 **24** to Zubair and Khaleel, not other way around. That's his

00:31:58 **25** admission. He admitted that he was fishing. Fishing; is that



-08:-39:-30 **1** how we do things here now? We hire somebody, we send them into  
-08:-39:-30 **2** a community, and we ask them to go fishing for someone to  
00:32:20 **3** conspire with? I hope it's not.

00:32:28 **4** Now, Mr. Griffin claimed this was all gathering  
-08:-39:-30 **5** information, but I think you know this went way beyond gathering  
00:32:40 **6** information. And we'll talk about that a little later. But I  
00:32:45 **7** want to talk right now about Marwan specifically and his  
00:32:51 **8** interaction with Mr. Griffin. Griffin admitted that he started  
00:32:55 **9** monitoring Marwan in 2002. And he started taping him very  
00:33:01 **10** early in 2003. And right from the start in March of 2003 he  
-08:-39:-30 **11** was saying things --

-08:-39:-30 **12** David, can you put that quote up?

00:33:16 **13** "I've become more militant." This is when the two  
-08:-39:-30 **14** of them are in the car together, either to or from the airport.  
00:33:23 **15** Griffin picked him up. And he tells Marwan: I've become more  
-08:-39:-30 **16** militant. He also said: I wish I was over in Iraq running a  
-08:-39:-30 **17** training program. This is way early on. This is way before  
00:33:38 **18** he ever introduced Wassim and Mohammad. Marwan didn't respond  
00:33:45 **19** to those comments in any way, and didn't show any support of  
-08:-39:-30 **20** those ideas. And that was from Darren Griffin's own admission  
00:33:53 **21** on April 29.

00:34:02 **22** By the way, the government kept asking why Marwan  
-08:-39:-30 **23** didn't run away from him; "run not walk" was the phrase. Well,  
-08:-39:-30 **24** why should he have to run away from Griffin just because the guy  
00:34:15 **25** had these crazy ideas; Griffin, not him. And the guy talked

-08:-39:-30 **1** about his own plans. It is Marwan's responsibility to run away  
-08:-39:-30 **2** from that? I would submit it's not. But him just sitting  
-08:-39:-30 **3** there doesn't mean that he agreed. And you know because  
00:34:35 **4** Griffin admitted it; that when he first started working on  
-08:-39:-30 **5** Marwan, he didn't support him. Marwan wasn't responsive to  
-08:-39:-30 **6** that kind of stuff.  
00:34:46 **7** There's another instruction I want to show you.  
-08:-39:-30 **8** This is about connection to the conspiracy. "Proof that a  
00:34:59 **9** defendant simply knew about a conspiracy, or was present at  
00:35:03 **10** times, or associated with members of the group, even if he  
00:35:07 **11** approved of what was happening or did not object to it, that's  
-08:-39:-30 **12** not joining a conspiracy." That's what the Judge told you.  
-08:-39:-30 **13** That will become more important later on.  
00:35:19 **14** Now, Griffin admitted that he asked Marwan a lot of  
00:35:26 **15** times to go shooting, and Marwan never did. There's nothing  
-08:-39:-30 **16** illegal about shooting. But Marwan never went, never showed an  
00:35:38 **17** interest. Griffin admitted that he was proactive at times.  
00:35:45 **18** That's how he put it, "proactive." I call it manipulative; he  
00:35:52 **19** calls it proactive. Either way, it's creating a situation to  
-08:-39:-30 **20** make it look a certain way.  
00:36:03 **21** You heard from some of those earlier recordings  
-08:-39:-30 **22** that we played on cross-examination how many times he would say  
00:36:12 **23** these kinds of things to Marwan, about training, about jihad.  
00:36:19 **24** And Marwan never, ever took the bait; back in those early days,  
-08:-39:-30 **25** or later frankly. But I just want to show you how long a

-08:-39:-30 **1** period of time Griffin spent trying to get this man interested.

00:36:42 **2** Now, you heard a few examples of the ways that

00:36:46 **3** Griffin would manipulate the conversation. They would be in

00:36:50 **4** the middle of talking about Islam or food or tea, and he would

00:36:57 **5** just bring up the notion of training or finding land to train or

00:37:05 **6** finding a place to shoot. When we talked about land, Marwan

-08:-39:-30 **7** got interested, but, you know, because you heard the evidence,

00:37:14 **8** he was interested in land for farming and for livestock. And

-08:-39:-30 **9** he actually, when he was arrested, had a few sheep in a pen out

-08:-39:-30 **10** behind his house. So Griffin wants land for his purpose;

00:37:35 **11** Marwan wants land for his purpose. And they're both talking

-08:-39:-30 **12** about it at the same time, but there's never a connection. It

00:37:49 **13** got to the point that sometimes they were talking about

-08:-39:-30 **14** different things so much you could hardly make sense of what was

-08:-39:-30 **15** going on.

00:38:00 **16** Considering that Mr. Griffin started working on

-08:-39:-30 **17** Marwan as far back as 2002, the question that comes to mind is:

-08:-39:-30 **18** How many times does a person have to say no? How many times

00:38:20 **19** does a person have to fail to take the bait? Do they have to

-08:-39:-30 **20** ignore the enticement before they should no longer be the target

00:38:32 **21** of investigation? We'll talk about why that question didn't

00:38:44 **22** get answered later. But is this the American way of doing

00:38:50 **23** things? Is this what we stand for?

00:38:59 **24** Griffin admitted on the stand, and it's undeniable

-08:-39:-30 **25** in the many, many recordings you heard, the evidence of a real

-08:-39:-30 **1** lack of communication and understanding because of his use of  
00:39:15 **2** ambiguity, which he said was on purpose. But look at all the  
-08:-39:-30 **3** different meanings of the word "training" that came up that were  
-08:-39:-30 **4** on the recording or that Griffin admitted were discussed.  
-08:-39:-30 **5** There was training for work reasons in the recruiting business,  
00:39:38 **6** recruiting students to go to medical school, recruiting laborers  
-08:-39:-30 **7** to work in Dubai. There was even something about recruiting  
00:39:45 **8** nurses to come here and work. There was training for  
00:39:49 **9** legitimate security work which Mr. Griffin told everybody that  
-08:-39:-30 **10** he had, but he didn't. There was training for physical  
00:39:57 **11** fitness. They talked about training for self-defense and home  
00:40:02 **12** protection. When Marwan talked about his kids playing soccer,  
-08:-39:-30 **13** they were training for soccer. He also talked about them  
-08:-39:-30 **14** training for karate.

00:40:16 **15** Now, Griffin admitted -- it took a while to get him  
-08:-39:-30 **16** there, to get him to admit it, but he admitted that at that ICNA  
-08:-39:-30 **17** conference in Cleveland when Marwan was talking about training  
-08:-39:-30 **18** right in front of Zubair and Khaleel, Marwan was talking about  
-08:-39:-30 **19** physical fitness to lose weight. Griffin admitted that. He  
00:40:41 **20** didn't want to, but he did.

00:40:54 **21** So many times when the word would come up, Griffin  
00:40:58 **22** would try to make it sound like something sinister, something  
00:41:03 **23** nefarious, something that looked like it was criminal, but that  
00:41:09 **24** doesn't mean that it was. You'll have to consider who was  
00:41:20 **25** saying what in these conversations because there was such a

00:41:24 **1** disconnect in the communication. And there wasn't just  
-08:-39:-30 **2** manipulation of the conversations; there was manipulation of the  
-08:-39:-30 **3** defendants themselves. He would ask them, encourage them to go  
00:41:37 **4** shooting, he even took some people shooting. Now, he and the  
00:41:42 **5** government both admit that that's perfectly legal, but they want  
-08:-39:-30 **6** you to use it to infer guilt. The same thing with the video:  
-08:-39:-30 **7** Griffin asked Marwan and Mohammad, he almost begged them to give  
-08:-39:-30 **8** him videos, to show him the videos, the sites, to burn him  
-08:-39:-30 **9** disks, to e-mail things to him constantly; he constantly tried  
-08:-39:-30 **10** to get them to do that. The government told you there's  
00:42:14 **11** nothing illegal about that, and there isn't, but they want you  
-08:-39:-30 **12** to use it to make an inference that they're guilty because of  
-08:-39:-30 **13** it.  
00:42:31 **14** How about getting them together? Griffin  
00:42:34 **15** constantly talked about getting together all the time with these  
-08:-39:-30 **16** guys. And once he got them all together. One time. February  
-08:-39:-30 **17** 16 he even said, We should all get together next week. Well,  
-08:-39:-30 **18** that never happened. He tried a lot, and it happened once in  
-08:-39:-30 **19** three and a half years. And even then, it was very clear that  
-08:-39:-30 **20** they didn't all know they were getting together, and they didn't  
-08:-39:-30 **21** all know what the reason was. Marwan thought his computer was  
00:43:09 **22** going to get fixed. Wassim didn't even know he was going to  
-08:-39:-30 **23** Marwan's house until he got in the car; he thought he was going  
-08:-39:-30 **24** to the shooting range, but Griffin took him to Marwan's instead.  
-08:-39:-30 **25** Again, putting them together so he can create the solution.

-08:-39:-30 **1** Every single time something happened in this case,  
-08:-39:-30 **2** Darren Griffin was right in the middle of it. And you know  
-08:-39:-30 **3** why? It's because he was the one who made it happen. He made  
-08:-39:-30 **4** all of this happen.  
00:43:59 **5** Now, Zubair and Khaleel. Let's just run through  
-08:-39:-30 **6** what we know about that. Marwan met Zubair at an EMSS seminar  
-08:-39:-30 **7** in Chicago. That was where his sister, Yasmin, learned about  
-08:-39:-30 **8** it and decided to go to medical school.  
00:44:22 **9** Now, the Chicago police report that you have in  
-08:-39:-30 **10** evidence makes clear that in late May, I think it was of 2004,  
-08:-39:-30 **11** Zubair's parents thought that he went over to get involved in  
-08:-39:-30 **12** the war. And we've stipulated; we've agreed with the  
00:44:45 **13** government. By the way, that was Exhibit 202, was that Chicago  
00:44:51 **14** police report.  
00:44:53 **15** Now, we've also stipulated that Mohammad Ahmed,  
-08:-39:-30 **16** Zubair's father, asked Marwan to go over there with him to try  
-08:-39:-30 **17** to bring these boys back. Why would he do that? Well, he had  
00:45:13 **18** met him recently, knew he spoke Arabic, and had some dealing  
-08:-39:-30 **19** with him. Mohammad Ahmed is Indian; he doesn't speak Arabic.  
-08:-39:-30 **20** He had to have somebody. He happened to call Marwan. Now,  
00:45:28 **21** Marwan did help retrieve Zubair and Khaleel, and they came back  
-08:-39:-30 **22** to the States. The government agrees to that. The defense  
-08:-39:-30 **23** agrees to that. You saw that picture of Marwan with his arms  
-08:-39:-30 **24** around them in Cairo, and he's pointing at the two of them.  
-08:-39:-30 **25** The government showed you that in the closing. Mr. Sofer told

-08:-39:-30 **1** you Marwan was saying: These are my guys. No way. That's  
00:45:55 **2** not what that picture showed at all. All you saw from Marwan  
-08:-39:-30 **3** in that picture was pride that he actually found them and that  
-08:-39:-30 **4** they were bringing them back: Look, look what I got  
00:46:10 **5** (motioning).

-08:-39:-30 **6** The government made it sound like it was the  
00:46:15 **7** beginning of his evil plan to train them better, but that's not  
-08:-39:-30 **8** the case. In fact, Marwan helped stop these boys from going  
-08:-39:-30 **9** and getting involved in this violent jihad against U.S. forces  
-08:-39:-30 **10** in Iraq and Afghanistan. Remember that? If anything, he  
-08:-39:-30 **11** helped stop them from attacking and killing American troops.

00:46:56 **12** Now, they came back here, Zubair and Khaleel still  
-08:-39:-30 **13** talked about training and fighting and jihad, and we all know  
-08:-39:-30 **14** that because you can see that from the recordings of that  
00:47:08 **15** conference in Cleveland in July of 2004. And Marwan heard part  
-08:-39:-30 **16** of that conversation, not the whole thing, but he heard enough  
-08:-39:-30 **17** to know what they wanted. He knew what they wanted from  
-08:-39:-30 **18** Griffin, and he knew that Griffin was willing to give it to  
-08:-39:-30 **19** them. And you know what happened after that? Nothing.

00:47:34 **20** Griffin said he would train them; he looked to  
-08:-39:-30 **21** Marwan to facilitate that. You heard it on the recordings.  
-08:-39:-30 **22** How many times did he ask him? I didn't count them. But no  
00:47:53 **23** matter how many times Griffin asked Marwan about them, or about  
00:47:59 **24** bringing them to Toledo, or hooking them up somehow, he never  
-08:-39:-30 **25** did it, ever, not once.

00:48:12 **1** After the conference in Cleveland, Darren Griffin  
-08:-39:-30 **2** never saw Zubair and Khaleel again. And the reason for that is  
-08:-39:-30 **3** Marwan El-Hindi. That's just a fact. Now, Marwan would say,  
-08:-39:-30 **4** yeah, I'll see if I can bring them; or, yeah -- he talked to  
-08:-39:-30 **5** Griffin a couple times while he was in Chicago; you heard that  
-08:-39:-30 **6** on the recordings. He said: Yeah, I'll see if I can bring  
00:48:43 **7** them back, or, I'll see if they're available. He said that a  
00:48:46 **8** bunch of times, but never did it. Now, I ask you, ladies and  
-08:-39:-30 **9** gentlemen, what do you think shows his intent better, that he  
-08:-39:-30 **10** said I'll bring them, or, I'll see if I can bring them, or that  
-08:-39:-30 **11** he never brought them? I would suggest that the fact that he  
-08:-39:-30 **12** never brought them, that shows what was going on in Marwan's  
-08:-39:-30 **13** mind.  
00:49:18 **14** The reason he doesn't bring them together is  
-08:-39:-30 **15** because he knows what they want to get involved in, and he knows  
00:49:28 **16** what Griffin's willing to do for them, and you even heard him  
-08:-39:-30 **17** say to Griffin that he didn't want these boys to do something  
-08:-39:-30 **18** stupid or get in trouble. He'd already gone to Cairo to bring  
-08:-39:-30 **19** them back from that. And after he brought them back, you heard  
-08:-39:-30 **20** him say he wanted to take care of them for their families, just  
-08:-39:-30 **21** like he told Griffin. That was the same day he told Griffin  
00:50:00 **22** that he was not recruiting for jihad. Griffin finally is clear  
00:50:06 **23** and unambiguous about something: Are you recruiting for jihad?  
-08:-39:-30 **24** And the answer is: No.  
00:50:12 **25** Now, that's a tape I do want to play for you. So



-08:-39:-30 **1** we need to get your headphones on. This is the button that  
-08:-39:-30 **2** stops static? That's the extent of my technical knowledge  
00:50:44 **3** right there. Ready?  
00:50:49 **4** (Audio is played.)  
00:51:04 **5** MR. BOSS: We still have static with the  
-08:-39:-30 **6** headphones.  
00:51:45 **7** (Discussion had off the record.)  
00:51:47 **8** MR. HARTMAN: Let's try it again.  
00:51:49 **9** (Audio is played.)  
00:53:39 **10** MR. HARTMAN: Are you recruiting for jihad or for  
-08:-39:-30 **11** one of the brothers over there? I think it's the first time  
-08:-39:-30 **12** that Griffin was clear and unambiguous in his question. And  
-08:-39:-30 **13** the answer was very clear: No, I just want to take care of  
-08:-39:-30 **14** these two boys. He says for their family. Well, we know what  
-08:-39:-30 **15** the family wanted; look at Exhibit 202. The family wanted them  
-08:-39:-30 **16** brought home and safe, not to get involved in anything.  
00:54:15 **17** There's talk about the Ahmeds again on October 8th,  
00:54:20 **18** 2004. And the government played you a clip that ended with a  
-08:-39:-30 **19** comment that Zubair's mother thought Marwan was dangerous and  
00:54:32 **20** didn't want Zubair around him. Again, it doesn't give you the  
00:54:37 **21** big picture.  
00:54:39 **22** First of all, we have no idea what Mrs. Ahmed  
-08:-39:-30 **23** thought. But later, Marwan expressed his disappointment about  
-08:-39:-30 **24** the perception of her thought because he was the one who went  
-08:-39:-30 **25** over there and got them. He said: How am I dangerous? I'm

-08:-39:-30 **1** the one who went over and brought them back. And Griffin even  
00:55:04 **2** says, You saved their lives. Again, I would encourage you to  
00:55:08 **3** listen to that recording. That's the same recording where  
-08:-39:-30 **4** Marwan says: Tell them you'll train them but not for jihad,  
-08:-39:-30 **5** just to protect themselves if somebody breaks into their house.  
-08:-39:-30 **6** Is there any better indication of Marwan's state of mind than  
00:55:27 **7** "not for jihad"? I don't think there is.  
-08:-39:-30 **8** Now, the government tried to tell you, and I'm sure  
-08:-39:-30 **9** we'll talk about it in rebuttal, that Marwan said that to try to  
-08:-39:-30 **10** cover up the truth about what Griffin was doing, to try to give  
-08:-39:-30 **11** him a story. But if that was true, why would Griffin say what  
00:55:53 **12** he said next? And what he said was: Hey, I want to get this  
00:56:00 **13** right; I'm going to train them for whatever they decide to do.  
00:56:10 **14** He's not talking about a coverup; he's talking about training.  
-08:-39:-30 **15** And do you know what that was in response to? "Not for jihad."  
-08:-39:-30 **16** That's what Marwan thought. I mean, the jury instructions tell  
-08:-39:-30 **17** you that you can use your common sense. Use your common sense  
00:56:32 **18** in making these determinations.  
00:56:34 **19** Now, common sense would indicate if Marwan ever,  
-08:-39:-30 **20** ever wanted Griffin to get together with Zubair and Khaleel to  
-08:-39:-30 **21** train them to do anything, but specifically to fight jihad the  
-08:-39:-30 **22** way they both talked about -- "both" being Griffin and the  
-08:-39:-30 **23** Ahmed -- he had plenty of opportunity to do it. He had plenty  
00:57:02 **24** of time to do it. He never did it.  
00:57:08 **25** Griffin asked Marwan on July 27, he said: How are

00:57:12 **1** the boys doing? Marwan said: They're good; they're cooling  
00:57:18 **2** down; they're back in school. And Marwan sound very satisfied  
-08:-39:-30 **3** when he said that.  
00:57:26 **4** Griffin still responded asking Marwan right then to  
-08:-39:-30 **5** bring them to Toledo. But Marwan said: They're good; they're  
00:57:38 **6** cooling down, and they're back in school. Common sense, ladies  
00:57:42 **7** and gentlemen. There's no question at all what he had in mind.  
-08:-39:-30 **8** I would encourage you to listen to that recording, too: July 27  
-08:-39:-30 **9** of 2004.  
00:57:58 **10** The evidence is clear, there were two times that  
-08:-39:-30 **11** you heard Darren Griffin be direct and unambiguous with Marwan  
00:58:10 **12** about his intentions with Zubair and Khaleel. Two times.  
-08:-39:-30 **13** Both times when no one else was around. One was when Marwan  
-08:-39:-30 **14** said "not for jihad," and the other was when Marwan said he  
-08:-39:-30 **15** wasn't recruiting for jihad.  
00:58:40 **16** How many times do you have to say no? Seriously.  
00:58:50 **17** Now, the important part of those exchanges and the  
-08:-39:-30 **18** testimony that came from here on the witness stand, Mr. Griffin  
00:59:02 **19** and Agent Coats both said that using ambiguity was a good thing  
-08:-39:-30 **20** because it didn't make sense to talk directly and openly about  
00:59:12 **21** what you wanted to do.  
-08:-39:-30 **22** Well, first of all, I would submit to you I think  
-08:-39:-30 **23** that's a ridiculous assertion. Griffin spent three and a half  
00:59:23 **24** years recording Marwan, monitoring Marwan. You don't spend  
-08:-39:-30 **25** that much time and not get to the point where you can be direct.

-08:-39:-30 **1** But the ambiguity also means that any comment where you're going  
-08:-39:-30 **2** to get a response, it may mean one thing, it may mean the other.  
00:59:42 **3** Because if the question is ambiguous, you don't necessarily know  
-08:-39:-30 **4** what the answer means. Not these two times. Not these two  
-08:-39:-30 **5** times. And they're the only two times where it's unequivocal.  
00:59:58 **6** Marwan was not interested in being involved in this stuff. He  
01:00:04 **7** doesn't have to prove that. The burden still rests with the  
01:00:09 **8** government. But those comments speak volumes about what he  
-08:-39:-30 **9** thought of this whole thing.

01:00:28 **10** Now, the government points to a conversation on  
-08:-39:-30 **11** February 8, 2005. And they talked about it in their closing  
-08:-39:-30 **12** argument when Marwan talked about Zubair with Griffin, and he  
-08:-39:-30 **13** talked about funding and CDs. Well, in the big picture, you  
-08:-39:-30 **14** know that Marwan was always looking for funding. Marwan needed  
-08:-39:-30 **15** money. You know that he had already talked to Zubair the  
-08:-39:-30 **16** previous summer about getting involved in EMSS, that's why he  
-08:-39:-30 **17** brought him to that conference; he said that to Griffin. And  
-08:-39:-30 **18** about the CDs, we've got to remember, it was six days before  
01:01:23 **19** that that Marwan and Griffin were together at CopyMax burning  
01:01:29 **20** CDs for EMSS. That's what he was talking about, taking Zubair  
-08:-39:-30 **21** those CDs. And he says to him, You with us or not? That's  
-08:-39:-30 **22** what Marwan was talking about, business, because that's what  
01:01:59 **23** Marwan always talked about was business.

-08:-39:-30 **24** The government called Marwan the self-proclaimed  
01:02:09 **25** moneyman of this conspiracy. He never gave a nickel to anyone

01:02:13 **1** for anything, never applied for a grant that didn't have a  
01:02:20 **2** legitimate purpose, although Mr. Griffin, you could hear on  
01:02:24 **3** those tapes, went to great lengths to make it sound like the  
-08:-39:-30 **4** grants were for training. When Marwan did get a grant to do a  
-08:-39:-30 **5** low income tax clinic, even the government admits that they --  
-08:-39:-30 **6** Dave, put up that stipulation.  
01:02:59 **7** Just go ahead and read that over.  
01:03:46 **8** Now, this is evidence because it's a stipulation  
01:03:50 **9** that the Judge read to you. That means that the government and  
01:03:54 **10** defendants agree to it. And this shows you a couple things.  
01:03:58 **11** First, it shows you that Marwan was interested in nonprofit  
01:04:06 **12** organizations and grants long before this conspiracy ever was  
01:04:13 **13** supposed to have happened. 2001 Marwan was interested in this  
01:04:19 **14** stuff, and he actually followed through with it. It also shows  
-08:-39:-30 **15** you that there's an allegation that some of the money is  
01:04:32 **16** misappropriated. That means that they allege that some of the  
-08:-39:-30 **17** money wasn't used for what it was supposed to be used for. But  
01:04:38 **18** there's no evidence whatsoever to show that it went to fund  
-08:-39:-30 **19** anything like what he stands accused of in this case, none.  
01:04:46 **20** Marwan talked about grants to open a halfway house,  
-08:-39:-30 **21** to help orphans, to help poor people in Egypt. There were a  
-08:-39:-30 **22** number of things that he talked about getting grants for. Now,  
-08:-39:-30 **23** did he see this as an opportunity to do some good while being  
-08:-39:-30 **24** able to pay himself? Yeah, he probably did. You can pick  
-08:-39:-30 **25** that up from the tape of the meeting with Mr. Dahabi on April 4.

01:05:30 **1** You might not like that, you might not think that's proper, but  
-08:-39:-30 **2** it doesn't make him a terrorist.

01:05:44 **3** He never talked about using this money for  
-08:-39:-30 **4** terrorism or for funding terrorism; Mr. Griffin did. There was  
-08:-39:-30 **5** a tape where they talk about a building on Reynolds Road that  
-08:-39:-30 **6** Marwan said would be perfect for a school; it would be perfect  
-08:-39:-30 **7** for a school. And they could get grants for that. And  
-08:-39:-30 **8** Griffin is the one who brings up shooting again to make it sound  
-08:-39:-30 **9** illegal. And Marwan says, well, it's a private building; we're  
01:06:22 **10** not doing anything illegal. Again, it's Griffin trying to  
01:06:27 **11** create the illusion for a later audience that there's some  
-08:-39:-30 **12** conspiracy going on, that there's some agreement that these guys  
-08:-39:-30 **13** have.

01:06:41 **14** I think -- in fact, I think it was on February 16,  
-08:-39:-30 **15** but I'm not sure, Griffin brings up the issue of grants in front  
01:06:51 **16** of somebody else for the first time, and he implies that they're  
-08:-39:-30 **17** intended to fund some project overseas. Somebody asks Marwan,  
01:07:03 **18** I don't remember who it was: Are they for overseas? And his  
-08:-39:-30 **19** answer: Not for overseas. He said it very clearly.

01:07:12 **20** I know it was on February 16 that Griffin said that  
01:07:20 **21** grants were Marwan's specialty and that they could get money  
-08:-39:-30 **22** that way, but you know what that shows you? That shows you  
-08:-39:-30 **23** Griffin's intent, not Marwan's. That shows you Griffin again  
01:07:39 **24** trying to create this illusion. The government entered a whole  
01:07:47 **25** bunch of exhibits containing information for different grants.

01:07:53 **1** They weren't applications; they were just informational  
01:07:57 **2** brochures for grants about a whole bunch of different things.  
01:08:01 **3** All legal. No evidence that Marwan ever applied for any of  
-08:-39:-30 **4** them.  
-08:-39:-30 **5** Keep in mind it was over a year between the time  
-08:-39:-30 **6** that they had dinner at his house and when he was arrested, and  
01:08:21 **7** it was eight or nine months after they met with Mr. Dahabi.  
01:08:27 **8** They never applied for any of those grants. There was simply no  
-08:-39:-30 **9** follow-up by the so-called moneyman to get money to fund this.  
-08:-39:-30 **10** And, again, that shows lack of an agreement.  
01:08:45 **11** Now, there was this meeting with Mr. Dahabi, April  
01:08:50 **12** 4, 2005. Griffin and Marwan went up to meet with this  
01:08:59 **13** accountant, Jihad Dahabi, at his office, and Griffin's wearing a  
01:09:03 **14** camera; we saw the video. They were going to start this  
-08:-39:-30 **15** organization, UMMAH, U-M-M-A-H. You heard evidence about that.  
-08:-39:-30 **16** You actually see the bylaws in evidence, so you can read those.  
-08:-39:-30 **17** So there's no evidence -- let me back up a second. The bylaws  
01:09:27 **18** say right in there that they were going to fund this  
01:09:31 **19** organization, at least in part, for government grants. So it's  
-08:-39:-30 **20** not like they were hiding anything. Marwan wasn't afraid to  
-08:-39:-30 **21** let anybody know that because he intended to have the bylaws  
01:09:43 **22** filed with the State of Michigan. But Dahabi never did it.  
-08:-39:-30 **23** But it says right in there where the funding is going to come  
01:09:51 **24** from.  
01:09:52 **25** Now, there isn't any evidence that Marwan indicated

01:10:05 **1** he was going to use that organization or that money for anything  
01:10:10 **2** related to the allegations in this case. Now, the government  
01:10:15 **3** argued, and probably will again in rebuttal, that this whole  
-08:-39:-30 **4** meeting with Dahabi was the follow-up. This was the follow-up  
-08:-39:-30 **5** to the plan, to the agreement that they made, and this was how  
01:10:30 **6** they were going to get money to fund the training. But Marwan  
01:10:34 **7** never said that and never agreed to that. What Marwan was  
-08:-39:-30 **8** doing, this is like the low income tax credit grant to him. It  
-08:-39:-30 **9** was just another opportunity.

01:10:56 **10** Even after April 4 Marwan never did anything to get  
01:11:02 **11** money, the so-called moneyman. Doesn't it make sense that if  
01:11:09 **12** there was some kind of an agreement here that there would have  
-08:-39:-30 **13** been some follow-up? I mean, what happens after April 4?  
01:11:21 **14** There are a few phone calls here and there, but nothing happens.  
01:11:27 **15** Doesn't common sense indicate if there's no follow up by Marwan  
-08:-39:-30 **16** that there was no agreement by Marwan?

01:11:47 **17** Even if there had been a conspiracy, the government  
-08:-39:-30 **18** did not prove, by any stretch of the imagination, that Marwan  
01:11:56 **19** voluntarily joined it.

01:11:58 **20** David, would you put that instruction up?

01:12:01 **21** This is the same thing we put up before, but  
-08:-39:-30 **22** there's a little more; if you see similarity, and what comes  
01:12:12 **23** after it. Just because a defendant may have done something  
-08:-39:-30 **24** that happened to help a conspiracy does not necessarily make him  
-08:-39:-30 **25** a conspirator. These are all things that you can consider in



01:12:24 **1** deciding whether the government has proved the defendant joined  
-08:-39:-30 **2** a conspiracy. But without more, they are not enough.

01:12:33 **3** Yes, there was an association. Yes, Marwan knew  
01:12:38 **4** Griffin. But even if you were to decide there was a  
-08:-39:-30 **5** conspiracy, which we don't believe there was, Marwan never  
01:12:51 **6** voluntarily joined.

01:12:56 **7** Now, the government was successful in proving some  
01:13:00 **8** things: First, Arab men love to talk about politics, and they  
-08:-39:-30 **9** get very passionate about it when they do. The government  
-08:-39:-30 **10** proved that. It's clear Marwan's main interest, aside from his  
-08:-39:-30 **11** children and religion, was any business he thought could put a  
-08:-39:-30 **12** few dollars in his pocket. Even Griffin admitted there was  
-08:-39:-30 **13** probably no business idea that Marwan wouldn't talk about.  
01:13:27 **14** Examples: EMSS obviously, the recruiting for laborers in Dubai,  
-08:-39:-30 **15** but also things like selling grocery bags to the dollar store,  
-08:-39:-30 **16** buying and selling candy and American flags, opening gas  
01:13:45 **17** stations, medical transcription work. The list goes on and on.  
-08:-39:-30 **18** That's what Marwan was about. And that's why he kept Griffin  
01:13:54 **19** around. He told him at one point that he wanted him to help  
-08:-39:-30 **20** with EMSS. In fact, it was in one of the recordings Marwan  
-08:-39:-30 **21** said: Well, you talk to him, you talk to the woman, and if he  
-08:-39:-30 **22** needs to know anything extra from me, you can ask.

-08:-39:-30 **23** The government moved Marwan did not believe the  
-08:-39:-30 **24** U.S. belonged in Iraq. He said that. He was pretty adamant  
-08:-39:-30 **25** about that. But he also said that he didn't think that they

-08:-39:-30 **1** could just leave because of the mess that would be over there.

01:14:33 **2** He watched lots of videos on the internet. They

-08:-39:-30 **3** proved that. Some of those videos some people would consider

-08:-39:-30 **4** pretty offensive. Some of them showed ugly scenes of war in

-08:-39:-30 **5** Iraq and other places. They show people from both sides of the

-08:-39:-30 **6** conflict being killed. They were difficult to watch, some of

-08:-39:-30 **7** them, but the Judge told you that you can't let any sympathy,

01:15:11 **8** bias, or prejudice influence your decision. So even if you're

01:15:16 **9** repulsed by those videos, even if it disgusts you that anyone

-08:-39:-30 **10** would watch those videos, you can't let that affect your

-08:-39:-30 **11** decision. You can look at those videos that show intent. The

-08:-39:-30 **12** government's going to tell you about that. I'm not going to

-08:-39:-30 **13** deny that. The Judge told you that. But don't forget that

01:15:46 **14** Marwan, just like the other two men who stand accused here

01:15:50 **15** today, he lives under the same protection of the First Amendment

-08:-39:-30 **16** that you and I do.

01:15:56 **17** Since Mr. Bryan threw around some quotes last

01:16:01 **18** Thursday, I'm going to give you one of my favorite ones. It's

-08:-39:-30 **19** Thurgood Marshall. He was a great lawyer, important champion

01:16:10 **20** of civil rights, and a Supreme Court justice. And he wrote --

-08:-39:-30 **21** and I can't quote it directly; I'm paraphrasing: The First

01:16:19 **22** Amendment means this: It means the government has no business

01:16:22 **23** telling a man in his own home what books he may read or what

01:16:26 **24** films he may watch. Now, I'm not suggesting that the First

-08:-39:-30 **25** Amendment means that nobody did anything wrong and no crime was

01:16:34 **1** committed, but you need to consider that when you consider what  
-08:-39:-30 **2** was watched and what was looked at.

01:16:43 **3** Incidentally, Mr. Amawi's father told you when he  
01:16:46 **4** was on the stand that watching that material is not unusual in  
01:16:50 **5** the Middle East at all. In fact, they show it on the news, on  
01:16:55 **6** Al-Jazeera, and on other stations, the names of which I didn't  
01:17:00 **7** recognize and couldn't pronounce anyway. So watching that type  
01:17:11 **8** of material is, in part, a cultural issue, and on that basis  
-08:-39:-30 **9** alone, can't be held against Marwan. I don't want you to think  
-08:-39:-30 **10** I'm misleading you. You can infer if you want to, but that's a  
-08:-39:-30 **11** cultural issue, and you can't hold it against him just on that  
01:17:34 **12** basis.

-08:-39:-30 **13** You know, the disturbing part of that was that it  
-08:-39:-30 **14** was real, those videos, people getting killed, people getting  
01:18:02 **15** beheaded, things blowing up. That was real. And we know  
-08:-39:-30 **16** Marwan had an interest in seeing what was going on. But an  
01:18:20 **17** interest doesn't equal intent. The government -- by the way, I  
-08:-39:-30 **18** think it's important to know that the videos that you guys were  
-08:-39:-30 **19** shown, they didn't all come from jihadists' or terrorists'  
-08:-39:-30 **20** websites. Some of those videos came from CNN, or they had the  
01:18:49 **21** Al-Jazeera logo. Some of this was mainstream video news. I  
-08:-39:-30 **22** would submit to you that's how Marwan looked at all of it. And  
01:19:00 **23** just like Mr. Amawi said on the stand: What's really going on.  
-08:-39:-30 **24** You want to know what's really going on and see what's real?  
01:19:11 **25** Well, American news doesn't show that kind of thing.

01:19:14 **1** By the way, the government entered into evidence  
01:19:16 **2** pictures of Marwan's house on Suder Avenue when -- the day that  
01:19:23 **3** he was arrested. And there are also some pictures of his  
-08:-39:-30 **4** former house on Mayo Street. If you look through those  
-08:-39:-30 **5** pictures, you'll notice something a little bit peculiar for a  
-08:-39:-30 **6** house in the U.S. There's no television. He didn't own one.  
01:19:44 **7** It's nowhere in the house. The computer, the internet, that's  
-08:-39:-30 **8** where he got his news. He didn't have a TV.  
01:20:10 **9** Judge, I wonder if we could take a 10- or 15-minute  
-08:-39:-30 **10** break?  
01:20:15 **11** THE COURT: Sure. We'll take a midmorning break.  
01:20:21 **12** (Recess taken.)  
01:39:16 **13** THE COURT: You may be seated.  
-08:-39:-30 **14** Mr. Hartman, you may resume.  
01:39:20 **15** MR. HARTMAN: Well, it's that point we talked  
-08:-39:-30 **16** about, what was proven in case. I want to talk at this point  
01:39:26 **17** about what the government did not prove. And the first issue  
-08:-39:-30 **18** is what's not there. I think this case is remarkable for  
-08:-39:-30 **19** what's not there as much as it is for what is there.  
-08:-39:-30 **20** When Marwan was arrested, there's no gun, there's  
-08:-39:-30 **21** no bomb, there's no explosive or explosive material. There's  
-08:-39:-30 **22** no target, there's no map. There's no plan. There isn't even  
-08:-39:-30 **23** a plan to get together with anybody at all in the future. None  
01:40:01 **24** of that is there. And that goes for Mr. Amawi and Mr. Mazloun  
-08:-39:-30 **25** as well. There isn't any common objective here that would

01:40:15 **1** qualify this as a conspiracy. It just doesn't exist.

01:40:27 **2** Now, Marwan told Mr. Griffin that there was no

-08:-39:-30 **3** place for jihad right now. That was on a recording. Griffin

-08:-39:-30 **4** tried to tie Marwan to this by saying on February 16, Marwan,

01:40:45 **5** maybe you want to go to Filistine /Palestine. But Marwan never

-08:-39:-30 **6** said that. And he didn't agree to it at the time. We don't

-08:-39:-30 **7** even know if there are U.S. servicemen in Palestine. The point

-08:-39:-30 **8** is, Griffin brought that up. That shows his intent. It

-08:-39:-30 **9** doesn't show Marwan's intent. They didn't prove a voluntary

-08:-39:-30 **10** agreement to join a conspiracy. At the end of the day, ladies

01:41:22 **11** and gentlemen, if there was no follow-up to the conversations

-08:-39:-30 **12** that took place, whether you take it from February 16, February

-08:-39:-30 **13** 25, or April 4, the meeting with Mr. Dahabi, if there's no

-08:-39:-30 **14** follow-up, is there an agreement made? Common sense would

-08:-39:-30 **15** dictate, no, there wasn't.

01:41:59 **16** Now, what Marwan did not do. Again, as I said

-08:-39:-30 **17** before, he didn't go shooting. It's perfectly legal, but he

01:42:07 **18** didn't do it despite the number of times he was asked. Never

01:42:11 **19** asked for training, tactical training, or any kind of training

-08:-39:-30 **20** in weapons or anything like that. Never asked about

-08:-39:-30 **21** explosives. He had no interest in any of that stuff. Now,

01:42:22 **22** again, interest doesn't equal intent. But he didn't even have

01:42:29 **23** interest. He did ask for Griffin's help, but he didn't ask for

-08:-39:-30 **24** his help in anything but business matters. Every time in the

01:42:45 **25** conversations about something having to do with this case was

-08:-39:-30 **1** brought up, it was brought up by Griffin except for once. I'll  
-08:-39:-30 **2** get to that in a minute. Marwan would respond to some of the  
01:42:59 **3** things that Griffin said, but it was always in response to Mr.  
01:43:07 **4** Griffin. And there's never any follow-up by Marwan.  
01:43:14 **5** It's also critically important that Marwan never  
01:43:19 **6** said anything to indicate an agreement with his other two  
-08:-39:-30 **7** alleged coconspirators. There was never anything like that.  
-08:-39:-30 **8** They were together one time, and there's no evidence that Marwan  
01:43:33 **9** ever said anything to Wassim or Wassim to Marwan; and the same  
01:43:38 **10** goes for Mohammad, that they agreed with each other. Marwan  
01:43:43 **11** responded to Griffin. It doesn't show an intent. It doesn't  
01:43:50 **12** show a conspiracy. Again, it's the illusion of a conspiracy.  
01:44:00 **13** Now, remember the jury instructions that say a  
-08:-39:-30 **14** person can't conspire with a government agent alone because  
-08:-39:-30 **15** Griffin was really the only one that Marwan talked to about any  
-08:-39:-30 **16** of this. Even though Griffin brought it up, he was the only  
01:44:21 **17** one.  
01:44:23 **18** Now, I told you earlier that there was one time  
-08:-39:-30 **19** that Marwan brought something up that wasn't Griffin, and that  
-08:-39:-30 **20** was Zubair and Khaleel. And that was in a phone conversation  
-08:-39:-30 **21** when he first told Griffin about Zubair and Khaleel. Do you  
-08:-39:-30 **22** remember that? He said there's two brothers; they'd like to  
-08:-39:-30 **23** train, and then he laughed. I think that laughter is very,  
-08:-39:-30 **24** very telling. Now, yes, he said they have a lot of energy and  
01:44:56 **25** all the other things that happened in the conversation, but when

-08:-39:-30 **1** he told Griffin there's these two brothers and they want to  
01:45:03 **2** train, he laughed.  
01:45:12 **3** Counts 5 and 6 against Marwan, those allege the  
-08:-39:-30 **4** distribution of explosive materials with the intent that it be  
01:45:24 **5** used to kill U.S. nationals. Marwan did watch a minute or two  
-08:-39:-30 **6** of the vest video with Mr. Griffin. That's the subject of  
-08:-39:-30 **7** Count 5. They also allege that Marwan gave Mr. Griffin Exhibit  
01:45:46 **8** 61. However, their own computer expert said there's no  
01:45:52 **9** evidence that Exhibit 61 was ever on Marwan's computer or that  
01:45:58 **10** his computer ever visited the website thread down there at the  
-08:-39:-30 **11** bottom that would get you to Exhibit 61. Griffin claims Marwan  
-08:-39:-30 **12** gave it to him. In a little bit we're going to talk about  
-08:-39:-30 **13** credibility of witnesses, and I'll remind you of Exhibit 61 at  
-08:-39:-30 **14** that point. But he did watch the video, part of it with  
01:46:22 **15** Griffin. We're not going to deny that. We told you that in the  
-08:-39:-30 **16** beginning we wouldn't deny that. That's the subject of Count  
-08:-39:-30 **17** 5. He also sent this e-mail to Griffin about the IED attack.  
-08:-39:-30 **18** Now, the government did not prove and cannot prove  
-08:-39:-30 **19** when Marwan did those things he had the intent for Griffin to  
01:46:53 **20** use that stuff to kill U.S. soldiers. There just isn't any  
-08:-39:-30 **21** evidence of that. There isn't any proof beyond a reasonable  
01:47:05 **22** doubt that that was Marwan's intent when he did those things.  
01:47:14 **23** David, can you pull up that instruction 22?  
01:47:20 **24** The government must prove beyond a reasonable doubt  
01:47:22 **25** that each defendant had the intent to further a federal crime of

01:47:28 **1** violence, namely the killing of a U.S. national outside the  
-08:-39:-30 **2** United States or an officer or employee of the United States.  
01:47:42 **3** Beyond a reasonable doubt that Marwan had that intent. Now,  
-08:-39:-30 **4** those things happened on February 8 of '05 with respect to the  
01:47:55 **5** vest video, and February 25 of '05 with respect to the e-mail.  
01:48:02 **6** And if you will recall, Darren Griffin was standing right next  
-08:-39:-30 **7** to Marwan the entire time when both of those events happened.  
-08:-39:-30 **8** It was almost like you could hear him telling Marwan what to  
01:48:27 **9** type. In one instance he's telling him 059. In the other one  
01:48:35 **10** he then tells him: Well, send it to my e-mail address. He's  
01:48:39 **11** telling him exactly what to type. It's as if Marwan's there at  
-08:-39:-30 **12** the computer, and Griffin's the puppet master. He's pulling  
-08:-39:-30 **13** the strings, asking Marwan to do these things. Well, just  
-08:-39:-30 **14** because Marwan did them doesn't show that he had an intent.  
-08:-39:-30 **15** And Griffin never said: Send me that IED e-mail because it's  
-08:-39:-30 **16** going to be perfect for me to help people kill Americans.  
01:49:21 **17** On February 8, the day the vest video ended up  
-08:-39:-30 **18** getting played, they started on the computer -- you'll hear that  
01:49:34 **19** recording. They started with Marwan showing Griffin a very good  
-08:-39:-30 **20** site for the Qur'an. That's what he was looking at first,  
01:49:45 **21** showing him a very good site for the Qur'an. He then goes to a  
01:49:49 **22** site where there are different forums or chat rooms. You heard  
-08:-39:-30 **23** that on the recording. Marwan said there's a general  
01:49:55 **24** discussion -- or whatever site they were on, there's a general  
01:49:58 **25** discussion room. There's a room for news of the Mujahidin,



01:50:02 **1** news, and the cells. And he says he doesn't think we could go  
-08:-39:-30 **2** in there because that's for people who actually fight the war .  
01:50:16 **3** That's what Marwan says to Griffin. Later they talk about the  
-08:-39:-30 **4** applications, and Marwan said they don't need fighters; all they  
-08:-39:-30 **5** want is -- they want applicants for electronic jihad, which  
01:50:33 **6** Marwan says spread the word and educate people.  
-08:-39:-30 **7** Now, at this point I would suggest to you the only  
01:50:41 **8** reasonable inference you can draw about Marwan's intent is his  
01:50:47 **9** desire to spread the word and educate people about what he sees  
-08:-39:-30 **10** going on. That's the only intent that he has shown.  
01:51:00 **11** You even heard him express his opinion at one point  
-08:-39:-30 **12** that he doesn't think the U.S. media covers things fully and  
01:51:09 **13** completely.  
01:51:14 **14** Now, they eventually do find the vest video. And  
01:51:20 **15** Griffin is very interested. You can hear him telling Marwan  
-08:-39:-30 **16** what to type. They open it up, and they watch a minute or two,  
01:51:28 **17** and Griffin says: Save it to your hard drive; save it to your  
-08:-39:-30 **18** hard drive. Burn that. Or, e-mail it to me. And Marwan  
-08:-39:-30 **19** can't do any of those things. So Griffin immediately says he  
01:51:40 **20** has to leave so he can go download it. And he leaves. It  
-08:-39:-30 **21** doesn't show intent on Marwan's part that this stuff's going to  
01:51:50 **22** be used to kill U.S. soldiers.  
01:51:53 **23** And, ladies and gentlemen, I'm not trying to  
-08:-39:-30 **24** downplay what's depicted in that video. Believe me, I'm not.  
-08:-39:-30 **25** It's disturbing. It's shocking. And I'm not trying to make

-08:-39:-30 **1** light of that. I hope you understand that. But I'm talking  
-08:-39:-30 **2** about Marwan, and I'm talking about Marwan's intent.  
01:52:26 **3** As for the IED e-mail, keep in mind that this was  
-08:-39:-30 **4** not an e-mail that somebody sent to Marwan. This was an e-mail  
01:52:37 **5** from a Yahoo group that he belonged to. It's like a bulk  
01:52:43 **6** mailing. I don't know if any of you belong to a Yahoo group.  
-08:-39:-30 **7** I belong to one for lawyers. Somebody will send out a piece of  
-08:-39:-30 **8** news, and it goes to all of them. Nobody sent this directly to  
01:52:55 **9** Marwan. Yes, the group was called IAI Iraq, and, yes, there  
-08:-39:-30 **10** was testimony about what that means, and it may sound all bad,  
-08:-39:-30 **11** but Marwan was interested in what's going on. Interest doesn't  
01:53:12 **12** equal intent. He opened this e-mail in front of Griffin, and  
-08:-39:-30 **13** Griffin asked him to forward it on, so he did.  
01:53:22 **14** Now, he did say something about teach. Marwan  
-08:-39:-30 **15** said something about teach when they looked at -- were looking  
-08:-39:-30 **16** at the e-mail. But he was explaining to Griffin what the  
01:53:44 **17** e-mail was, not talking to Griffin about what he was going to do  
01:53:48 **18** with it. Because Griffin said something: Well, they didn't  
-08:-39:-30 **19** hide that one very well. And Marwan said: I think they're  
-08:-39:-30 **20** trying to teach. And then it trails off; you can't hear it.  
01:54:00 **21** But he's just talking about the subject matter of the video.  
01:54:05 **22** He's explaining what that is.  
01:54:11 **23** The government said Marwan knew exactly what that  
01:54:18 **24** was because he could read the Arabic subject of the e-mail.  
01:54:23 **25** Well, of course he can read Arabic, but he didn't translate that

01:54:29 **1** for Griffin. He didn't say this is being sent because it shows  
01:54:33 **2** how to plan an IED attack. And the thing was just pirated from  
01:54:41 **3** something else. I mean, the government's own expert said that  
-08:-39:-30 **4** it was probably something that was made by coalition or U.S.  
01:54:48 **5** forces to show how to avoid one, how to detect and avoid one.  
-08:-39:-30 **6** I'm not suggesting Marwan sent that to Griffin so he would know  
-08:-39:-30 **7** how to avoid an IED attack. But that's all this was. It was  
01:55:03 **8** pirated from somewhere else, and it was sent on the internet.  
01:55:15 **9** In order to find Marwan guilty of either Count 5 or  
01:55:22 **10** Count 6, you have to find -- you can forget about giving the  
01:55:26 **11** information; he gave the information to Griffin. Okay. You  
-08:-39:-30 **12** have to find the intent. And I would suggest to you that there  
-08:-39:-30 **13** is no credible evidence, direct or otherwise, that he had the  
-08:-39:-30 **14** intent that this was to be used to kill U.S. soldiers. That's  
01:55:51 **15** an inference the government is going to ask you to draw, but  
-08:-39:-30 **16** it's an inference that is not supported by the evidence.  
01:56:00 **17** Marwan's previous comments, even to Griffin himself, indicate in  
01:56:06 **18** his mind he didn't support it, the idea of jihad. To him jihad  
01:56:15 **19** was raising his children. For others, he said, it's better to  
01:56:21 **20** convert one person to Islam than to go over and fight and get  
-08:-39:-30 **21** yourself killed. That's what jihad meant to Marwan. And  
-08:-39:-30 **22** that's what you can infer his intent was. That's a fair  
-08:-39:-30 **23** inference.  
01:56:42 **24** When you're considering this intent issue, look at  
-08:-39:-30 **25** Marwan's words, not Griffin's words. We know from previous

-08:-39:-30 **1** evidence in this case Griffin is all too willing to lie. He  
01:57:03 **2** admitted it. You have to look at Marwan's words to see if he  
-08:-39:-30 **3** had any intent because Griffin would lie and twist and  
-08:-39:-30 **4** manipulate just to make things sound a certain way. Judge  
-08:-39:-30 **5** Marwan by his own words and his own actions, and especially by  
-08:-39:-30 **6** the topics he brought up himself in the conversation. When you  
-08:-39:-30 **7** listen to the recordings, if you listen to recordings, or as you  
-08:-39:-30 **8** review your notes about these conversations, who brought these  
01:57:39 **9** topics up? Who brought up this stuff? How many times did  
01:57:47 **10** Marwan bring up the issue of going to fight or going to train?  
01:57:55 **11** I don't think he ever did. It was always Griffin. And what  
-08:-39:-30 **12** that shows, I believe, is a lack of intent and a lack of  
-08:-39:-30 **13** agreement on Marwan's part.  
01:58:18 **14** Now, Mikhail Al-Mozrouei, what he claims Marwan  
-08:-39:-30 **15** asked him about was going to Afghanistan to train for jihad.  
01:58:32 **16** This is kind of out of the blue, and I think you need to be  
01:58:36 **17** skeptical of this witness for a couple of reason, not the least  
01:58:40 **18** of which is that this is the first and only time anyone ever  
01:58:44 **19** cites Marwan as saying anything like that at all. Over three  
-08:-39:-30 **20** years, Griffin's recording Marwan, he never says anything like  
-08:-39:-30 **21** that. No one else comes in to say they hear Marwan say  
01:59:03 **22** anything like that. Why do I think you need to be skeptical or  
01:59:09 **23** dismiss Mr. Al-Mozrouei's testimony? First he says that there  
-08:-39:-30 **24** were people sitting on the floor with Marwan when he went up to  
-08:-39:-30 **25** him, but he doesn't remember who they were. When I asked him

-08:-39:-30 **1** to describe them, I think he said that their faces were blurry  
-08:-39:-30 **2** in his mind. What does that say about his memory, his ability  
-08:-39:-30 **3** to perceive and recall?

01:59:40 **4** He was interviewed by the FBI twice and never  
01:59:45 **5** mentioned a word about this comment to the FBI. One time he  
01:59:51 **6** even told the FBI about somebody else, but he never told them  
-08:-39:-30 **7** about this. It wasn't until a third interview, which was March  
02:00:04 **8** 4 of this year, that he finally suddenly remembered this  
02:00:11 **9** comment. That was the day jury selection began in this case,  
-08:-39:-30 **10** about four years after the comment was supposed to have been  
-08:-39:-30 **11** made; three anyway, at least. Like I said, in all the  
02:00:28 **12** recordings that Griffin made, never does Marwan say anything  
-08:-39:-30 **13** like this. And you know he tried to get him to. You could  
-08:-39:-30 **14** hear that. You know, the absence of any evidence or statements  
-08:-39:-30 **15** like that is one of the reasons the government didn't meet its  
-08:-39:-30 **16** burden of proof.

02:00:52 **17** Now, I don't want to talk down about Mr.  
02:00:59 **18** Al-Mozrouei, but you have to consider his condition that he  
02:01:05 **19** talked about when you consider his testimony. He said that he  
02:01:10 **20** was bipolar and he had ADHD. I'm not cutting him down or  
-08:-39:-30 **21** anything like that. He said when he was on medication, it  
02:01:24 **22** didn't affect his memory or his perception, but he also said he  
-08:-39:-30 **23** wasn't on medication at the time this comment was supposed to be  
-08:-39:-30 **24** made. I would suggest that you shouldn't even consider his  
-08:-39:-30 **25** testimony. If you do decide to consider his testimony,

-08:-39:-30 **1** remember that he also said, when he sat here and was recalling  
-08:-39:-30 **2** the event, he didn't think Marwan was serious.

02:02:02 **3** You heard some testimony that Marwan was  
02:02:05 **4** interviewed by the FBI on the day he was arrested, and you heard  
-08:-39:-30 **5** testimony that he told them things that were not true. The  
-08:-39:-30 **6** government argued in its closing, and may again in its rebuttal,  
02:02:22 **7** that those are false exculpatory statements by Marwan and that  
-08:-39:-30 **8** they show a consciousness of guilt. And the Judge's  
02:02:35 **9** instructions say that you can infer a consciousness of guilt  
-08:-39:-30 **10** from a false exculpatory instruction. Excuse me. However, the  
-08:-39:-30 **11** Judge's instruction also says there may be a completely  
-08:-39:-30 **12** different reason for an innocent person not to tell the truth.  
02:02:57 **13** Memory, for instance.

-08:-39:-30 **14** The government seemed to make a big deal out of the  
-08:-39:-30 **15** fact that when they asked Marwan for Griffin's e-mail address,  
-08:-39:-30 **16** he told him DarrenGriffin@BD; he didn't give them this Abu Jihad  
02:03:13 **17** e-mail address. Well, how long had it been since he used that  
-08:-39:-30 **18** e-mail address? We don't even know that. We know he didn't  
02:03:20 **19** have regular contact with Griffin for months or a year.

02:03:32 **20** Also, I e-mail my brothers and my sister just about  
02:03:37 **21** every day. I couldn't tell you any of their addresses, not  
-08:-39:-30 **22** even close. I couldn't tell you people's phone number I call  
-08:-39:-30 **23** in my cell phone. It's all programmed in under their name. I  
02:03:48 **24** hit somebody's name; I hit send. I have no memory of those  
-08:-39:-30 **25** kind of things. That could be a reason.

-08:-39:-30 **1** But there's another reason that I think is probably  
-08:-39:-30 **2** more compelling that Marwan might have for making false  
-08:-39:-30 **3** statements to an FBI agent the day he's arrested, yanked out of  
02:04:11 **4** his house, and taken downtown by the FBI. And I would suggest  
-08:-39:-30 **5** that that's fear. Just fear. And I think the best evidence  
02:04:23 **6** of that doesn't even come from Marwan. I think the best  
02:04:28 **7** evidence of that comes from the testimony of the accountant,  
02:04:36 **8** Jihad Dahabi. Remember his testimony; it was on videotape. We  
-08:-39:-30 **9** had to watch it because he wasn't here. Well, April 4, 2005,  
-08:-39:-30 **10** they went up to see him about setting up a nonprofit  
02:04:51 **11** organization. And Mr. Sofer said in his closing that Dahabi  
02:04:57 **12** must have known that this was about terrorism, or words to that  
-08:-39:-30 **13** effect. I don't want to quote; he said something like that. I  
02:05:08 **14** think that is absolutely not what the evidence showed from Mr.  
-08:-39:-30 **15** Dahabi's testimony. He did say in his testimony that he never  
02:05:19 **16** filed the paperwork that he drew up the day that Marwan and Mr.  
02:05:26 **17** Griffin saw it. The reason is because Darren Griffin made him  
-08:-39:-30 **18** uncomfortable with all this talk. That's the reason he didn't  
02:05:38 **19** file the paperwork. He destroyed it the next day. In his  
-08:-39:-30 **20** testimony he said -- and I encourage you to go back and watch  
02:05:46 **21** it; it's not that long; it's only about a half an hour. Marwan  
02:05:51 **22** didn't make him uncomfortable; it was Griffin who made him  
-08:-39:-30 **23** uncomfortable. But then he lied to the FBI about it, and he  
-08:-39:-30 **24** told the FBI that he destroyed the paperwork because it didn't  
02:06:03 **25** have all the signatures he needed, or something like that.

02:06:12 **1** He got up there on the stand, it was on the  
-08:-39:-30 **2** videotape, and he admitted that he had lied to the FBI even  
02:06:22 **3** though he knew he hadn't committed any crime. He wasn't accused  
-08:-39:-30 **4** of committing a crime. He wasn't accused of conspiring with  
-08:-39:-30 **5** anybody. He just got uncomfortable because of Griffin, and he  
-08:-39:-30 **6** was afraid of the FBI.

02:06:47 **7** Marwan's false statements are, if there are any,  
-08:-39:-30 **8** are not consciousness of guilt for some crime any more than  
02:06:55 **9** Dahabi's were. Frankly, I think it's a product of fear. I  
02:07:05 **10** cannot imagine being a Muslim in America and facing some  
02:07:14 **11** accusation related to terrorism. I don't think any of us can  
02:07:20 **12** imagine what that would be like in this post-September-11 world.

02:07:38 **13** Even though we can't imagine what that would be  
-08:-39:-30 **14** like, I think we can understand why getting a knock on the door  
-08:-39:-30 **15** by the FBI, if you're a Muslim in 2008, would absolutely scare  
02:07:50 **16** the hell out of you. Not to say that there's anything wrong on  
-08:-39:-30 **17** the FBI's part, but that's just reality.

-08:-39:-30 **18** The government presented you with a whole bunch of  
-08:-39:-30 **19** computer evidence and experts to explain what it was and  
02:08:10 **20** translators to show what they said. And my basic response to  
-08:-39:-30 **21** that is: So what? Who cares, really? I don't care how many  
02:08:26 **22** files are in the internet history; I don't care what links may  
02:08:30 **23** have been clicked through what e-mail server. I don't care how  
-08:-39:-30 **24** many cookies there are in the computer's cookie jar. None of  
-08:-39:-30 **25** that has anything to do with whether or not Marwan made a



-08:-39:-30 **1** criminal agreement, whether he joined a conspiracy with these  
-08:-39:-30 **2** people, none of that stuff. It has nothing to do with it.  
-08:-39:-30 **3** But they sure spent a lot of time on it. Now, we could argue  
-08:-39:-30 **4** with some of the government's assertions about that computer  
-08:-39:-30 **5** evidence because there was some unanswered questions, and there  
-08:-39:-30 **6** were some issue. Just really quickly, Exhibit 61 was never on  
-08:-39:-30 **7** Marwan's computer. That's according to their own expert. The  
-08:-39:-30 **8** URL for Exhibit 62 never showed up on Marwan's computer. That's  
02:09:18 **9** according to their own expert. Exhibit 73 did not come from an  
02:09:26 **10** Ekhlalas website; it was from a Yahoo group. It was unsolicited,  
02:09:32 **11** according to their own expert.

-08:-39:-30 **12** If you type in what Mr. Griffin wrote on the back  
-08:-39:-30 **13** of that second page or whatever, if you type that in, it's not  
-08:-39:-30 **14** going to take you to anything but an error message because there  
-08:-39:-30 **15** are two spelling mistakes. And why didn't the government  
02:09:49 **16** convert Exhibit 74? It was supposed to be Griffin's  
02:09:53 **17** confirmation of his registration for whatever. It was in  
-08:-39:-30 **18** that -- what we call Wingding, for lack of a better term. Why  
02:10:02 **19** didn't they convert that so you knew what it said? They did it  
-08:-39:-30 **20** with some other exhibits. But you know what, I don't care. I  
02:10:10 **21** don't think any of it matters.

02:10:15 **22** No matter what the answers are to those questions,  
-08:-39:-30 **23** they don't get to the elements of the offenses here. It  
-08:-39:-30 **24** doesn't prove that Marwan ever made an agreement or that he had  
-08:-39:-30 **25** any intent. And even if you think it was possible, that's not

-08:-39:-30 **1** proof beyond a reasonable doubt. You'll read that in the  
02:10:49 **2** instructions.

02:10:50 **3** Now, there are some other issues from the  
-08:-39:-30 **4** government's closing that I need to address.

02:10:58 **5** Mr. Sofer said he quoted Marwan on October 8 of  
02:11:04 **6** 2004, I believe it was, saying something about knowing your  
-08:-39:-30 **7** enemy is knowing their strength, or words to that effect. To  
02:11:13 **8** be honest, I don't remember the exact quote. But he didn't  
02:11:19 **9** explain the next line about: Going with the Sunnah means we  
-08:-39:-30 **10** can't lose. The Sunnah is a very important religious text in  
02:11:29 **11** Islam. And what Marwan said was just a quote from the Sunnah.  
02:11:35 **12** I told you that; big picture.

-08:-39:-30 **13** The government made a lot of noise about Marwan  
02:11:45 **14** saying, "I understand," which I think was on December 16 of '04.  
-08:-39:-30 **15** They pointed it out to you because it was in response to some  
02:11:56 **16** comment by Mr. Griffin, that he only wanted to train people who  
-08:-39:-30 **17** were going to go overseas, or he only wanted to train people who  
-08:-39:-30 **18** were going to go fight, or something like that. And Marwan  
02:12:06 **19** said, "I understand." Well, he may have just been dismissing  
-08:-39:-30 **20** Griffin, or he may have, in fact, understood. He may have  
02:12:20 **21** understood that's exactly what Griffin's intent was. But  
02:12:25 **22** again, that doesn't mean it was Marwan's intent. And it  
02:12:30 **23** wouldn't be fair to take Griffin's intent and impute that to  
02:12:35 **24** Marwan to find him guilty. That's not the way we do things.

02:12:44 **25** There was talk about what the U.S. troops fear most

02:12:48 **1** in Iraq. Snipers is what Marwan said. Well, that's a  
02:12:52 **2** statement of opinion. That's all it is. Marwan didn't say:  
-08:-39:-30 **3** I want to be a sniper because that's what they're most afraid  
-08:-39:-30 **4** of, or anything like that. He also said in the same  
02:13:03 **5** conversation, he said: You know who's best at street fighting?  
-08:-39:-30 **6** The Israelis. Does that mean this Arab man wants to get into a  
-08:-39:-30 **7** conspiracy with the Israeli Army? Of course not. He's  
-08:-39:-30 **8** talking about his opinion. That's not enough to show intent.  
02:13:23 **9** Mr. Sofer showed you a large number of phone  
-08:-39:-30 **10** records and then a chart with those arrows to show contact  
02:13:32 **11** between Marwan and Khaleel and Zubair and Mr. Griffin. And he  
02:13:37 **12** said -- this one I am quoting: "I'm not asking you to  
-08:-39:-30 **13** speculate, but they're communicating as you would expect  
02:13:45 **14** conspirators to do." Speculating is exactly what he's asking  
-08:-39:-30 **15** you to do. He's asking you to speculate that because of the  
-08:-39:-30 **16** communications, they're conspirators. That's exactly what he's  
02:14:00 **17** asking.  
02:14:06 **18** Even if you do make that speculation, add it to  
02:14:09 **19** inferences, and consider it in light of the rest of the  
02:14:14 **20** evidence, the government hasn't proven anything here beyond a  
02:14:17 **21** reasonable doubt.  
02:14:20 **22** Incidentally, in those phone records, in Khaleel  
02:14:24 **23** Ahmed's phone, the government pointed out that Marwan's number  
02:14:29 **24** was listed under Abu Shakha. They offered no explanation for  
-08:-39:-30 **25** that. You remember Mr. Antoon, their translator? I wish we

02:14:40 **1** could get him back up here so he could explain to you what an  
-08:-39:-30 **2** incredible insult it is to call somebody Abu Shakha in the  
-08:-39:-30 **3** Arabic language. Frankly, literally translated, it means  
02:14:52 **4** something that I should not say in a courtroom, and I won't.  
02:14:58 **5** But the government points it out with no explanation whatsoever.  
02:15:05 **6** Again, we're not getting the big picture.  
02:15:09 **7** Mr. Sofer kept saying: Why didn't El-Hindi run,  
-08:-39:-30 **8** not walk, to get away from Griffin. Well, in a sense he did.  
02:15:23 **9** Not for jihad, not recruiting for jihad. He walked away from  
02:15:31 **10** the concepts. Even if he didn't walk away from the person, he  
02:15:36 **11** walked away from the idea, and he made that clear early on.  
02:15:42 **12** Maybe the better question, though, is why does he have to run  
-08:-39:-30 **13** away? Just because Griffin says radical things and he talks  
-08:-39:-30 **14** about training, and he says he wants to teach people to fight,  
02:15:54 **15** why does Marwan have to run away from him if he has no intent to  
-08:-39:-30 **16** get involved? He doesn't. That doesn't mean that he's  
02:16:07 **17** committed a crime. That's not what our Constitution says.  
02:16:11 **18** That's not how we do things here.  
-08:-39:-30 **19** It is, however, in a way what this case really  
02:16:24 **20** boils down to, to be perfectly frank with you. If Marwan's  
02:16:28 **21** guilty of anything, it's being too naive to realize that he  
-08:-39:-30 **22** could get in trouble for listening to that guy, talking to that  
02:16:39 **23** guy, even without the intent to do anything; that somebody  
-08:-39:-30 **24** talking like that could land him here, accused of supporting  
02:16:51 **25** terrorism. He didn't realize that. That's what he's guilty

-08:-39:-30 **1** of. That's all he's guilty of. He never expressed any intent,  
02:17:11 **2** yet he stands here accused because he didn't realize that.  
02:17:16 **3** Now, the other important part of this, I'm going to  
-08:-39:-30 **4** try to speed this up because I don't want to bore you, but I  
-08:-39:-30 **5** have to talk about these things because there's a lot of  
-08:-39:-30 **6** evidence, so I hope you bear with me a little bit.  
-08:-39:-30 **7** David, would you put up that picture?  
02:17:37 **8** MR. BOSS: Is the large screen on?  
02:17:40 **9** MR. HARTMAN: The large screen is not on, but are  
02:17:45 **10** the small screens on?  
-08:-39:-30 **11** THE JUROR: Uh-huh.  
02:17:47 **12** MR. HARTMAN: We need to talk about Griffin.  
02:17:49 **13** Obviously I've talked a lot about Mr. Griffin and his role in  
-08:-39:-30 **14** all this. But -- and let's talk about him. The evidence,  
02:17:58 **15** including his own testimony, is that he continuously showed a  
02:18:05 **16** complete and total disregard for his own legal obligations.  
02:18:14 **17** That would indicate that he would show a complete and total  
-08:-39:-30 **18** disregard for the oath he took before he got on that stand. He  
02:18:26 **19** lied to the DEA when he was working for them about using drugs  
02:18:31 **20** and about selling drugs. He lied to the FBI about his history  
02:18:36 **21** of drug use when they hired him. He made over \$350,000 and  
02:18:44 **22** decided not to pay taxes on it. He testified in his direct  
02:18:49 **23** examination that he wasn't sure how; it was kind of gray area.  
-08:-39:-30 **24** That is nonsense. That is ridiculous. He admitted on  
02:19:06 **25** cross-examination when Mr. Boss asked him about that agreement,

02:19:10 **1** those agreements he signed with the government, there was no  
02:19:13 **2** gray area about the fact that it said you must pay taxes on this  
02:19:17 **3** money. But he ignored it, and he decided not to. Common  
02:19:29 **4** sense; people get paid in cash all the time. All kinds of  
-08:-39:-30 **5** different people get paid cash. You still have to pay taxes on  
-08:-39:-30 **6** it. You take your life experience into the jury room with you.  
02:19:41 **7** Have you ever seen a tax form that didn't have a space that said  
-08:-39:-30 **8** other income? A plumber gets paid cash for a job that he does,  
-08:-39:-30 **9** but he never gets a 1099. Does that mean he doesn't have to  
-08:-39:-30 **10** pay tax on it? Of course not. A gray area? That's a lie.  
02:20:03 **11** How about the rest of the money? How about the  
-08:-39:-30 **12** satellite phone? He took over \$45,000 from the government to  
-08:-39:-30 **13** pay the bill for that satellite phone, and then he pocketed  
-08:-39:-30 **14** \$22,000 of it. He tried to explain it to you by saying he had  
-08:-39:-30 **15** some disagreements with the charges that were on that bill.  
-08:-39:-30 **16** Well, guess what, he wasn't the one in control of that phone  
02:20:28 **17** when the \$45,000 bill was run up. How the heck would he know  
-08:-39:-30 **18** anything about what the charges were? He doesn't. He  
02:20:36 **19** pocketed that money. It makes you wonder how many other  
02:20:44 **20** reimbursements he pocketed rather than paid.  
02:20:49 **21** More importantly, how many other times did he lie  
-08:-39:-30 **22** to the FBI about what was really going on with these men? Mr.  
-08:-39:-30 **23** Sofer said it was critically important that Marwan didn't go  
02:21:08 **24** shooting on April 20 because he had back pain. It was  
02:21:11 **25** critically important, he said he had back pain. Well, that's

02:21:17 **1** ludicrous. You heard on the phone call Marwan and Griffin  
-08:-39:-30 **2** talking, and Griffin tells him it's training day, and Marwan's  
-08:-39:-30 **3** response is: Well, I've got this stuff in customs that's being  
-08:-39:-30 **4** held up, these hygiene products that are being held up. I've  
-08:-39:-30 **5** got to go to this place in Maumee. Can you help me find the  
-08:-39:-30 **6** address? That's the response. Then when Griffin talks to  
02:21:43 **7** Agent Coats later on that day on the telephone, he forgets to  
-08:-39:-30 **8** turn off the recording device, and that call that you heard was  
02:21:50 **9** caught on the tape. And the agent says: Well, what about  
02:21:56 **10** El-Hindi? And Griffin's response is: Nope, never showed up,  
02:22:00 **11** never even called. You know from the previous recording  
-08:-39:-30 **12** earlier that day, there was never a plan for him to show up.  
-08:-39:-30 **13** Never intended to go shooting. But that's not what Griffin  
02:22:19 **14** told the FBI.  
02:22:21 **15** Think of Griffin's failure to tell the FBI agents,  
-08:-39:-30 **16** his handler, when Marwan made the comments he did that showed a  
-08:-39:-30 **17** lack of any criminal intent or any jihadist tendency at all.  
-08:-39:-30 **18** He doesn't tell the FBI that the guy says: Not for jihad. He  
-08:-39:-30 **19** doesn't tell the FBI: Well, I asked him if he was recruiting  
-08:-39:-30 **20** for jihad today, and he said no.  
02:22:58 **21** The government has the burden of proof here, but I  
02:23:01 **22** will ask you again, how many times does a person have to say no?  
02:23:05 **23** Well, guess what. The government never got to answer that  
-08:-39:-30 **24** question, and they never got to answer that question because  
02:23:14 **25** Darren Griffin's lies and omissions kept the truth from them

02:23:19 **1** while this investigation was going on. We even asked those  
02:23:34 **2** agents to look at their own report, if you recall in their  
-08:-39:-30 **3** testimony, to see if Griffin told them about those things. And  
-08:-39:-30 **4** they weren't in there. And the best answer Griffin could come  
-08:-39:-30 **5** up with on the stand: I don't recall. I don't recall. He  
-08:-39:-30 **6** said that a lot. Whenever he got cornered on cross-examination,  
-08:-39:-30 **7** he said: I don't recall.

02:24:06 **8** What does that say about his credibility; that  
02:24:13 **9** Marwan, the target of the investigation, told him he didn't want  
-08:-39:-30 **10** to be involved in that kind of stuff, and he doesn't tell the  
02:24:22 **11** FBI? Well, it could tell you he had a reason to lie. He  
-08:-39:-30 **12** didn't have a reason to lie; he had 350,000 reasons to lie.  
-08:-39:-30 **13** Now, the government tells you that that doesn't matter because  
-08:-39:-30 **14** there were other investigations going on, and Griffin would have  
02:24:44 **15** gotten paid anyway, even if this one had stopped. Well, they  
-08:-39:-30 **16** can't tell us about those other investigations. I wonder how  
-08:-39:-30 **17** many lies Griffin told in those.

02:24:59 **18** Worst of all, worst of all, he took the stand right  
-08:-39:-30 **19** there, and he lied to you on direct examination in response to a  
-08:-39:-30 **20** question from Mr. Sofer about the February 16 dinner meeting at  
-08:-39:-30 **21** Marwan's. Mr. Sofer asked him, asked Mr. Griffin, what were the  
-08:-39:-30 **22** three defendants doing while you were having this conversation?  
02:25:27 **23** And his answer: Well, they were sitting with their attention  
02:25:33 **24** riveted on me. Riveted. He used the word.

02:25:40 **25** David.



02:25:40 **1** (Video is played.)

02:25:42 **2** That's riveted? The government played you the

02:25:46 **3** audio, so you have no idea what was going on in the room at the

-08:-39:-30 **4** time. But when you looked at the video, you got the bigger

-08:-39:-30 **5** picture. When you looked at his video you realized that Marwan

02:26:03 **6** was serving food. He was leaning out that doorway to the

-08:-39:-30 **7** kitchen. He was talking to someone in the kitchen. He left

-08:-39:-30 **8** the room for a while. He didn't take the book from Griffin

-08:-39:-30 **9** that he offered him. He was even playing with his kids for

02:26:17 **10** part of the time.

02:26:22 **11** Now, Mr. Sofer expressed some disgust that

02:26:27 **12** Mr. El-Hindi allowed his children to be in the room during the

-08:-39:-30 **13** conversation. But you've got to remember, Marwan didn't know

-08:-39:-30 **14** this conversation was coming. They were all sitting around;

-08:-39:-30 **15** Griffin says: May Allah guide my words, and just starts going.

-08:-39:-30 **16** The kids were in the room already, and Marwan didn't know this

-08:-39:-30 **17** was coming.

02:26:52 **18** Now, it's true that Marwan didn't tell him to shut

-08:-39:-30 **19** up, didn't tell him to get out of his house, and didn't do any

-08:-39:-30 **20** of those things. But does that make him guilty? Does that

02:27:08 **21** mean he agreed? It doesn't. It doesn't. Suppose there's a

02:27:20 **22** guest in your own house with a few other people, and your guest

-08:-39:-30 **23** tells an off-color joke; maybe it's racist, maybe it's sexist,

-08:-39:-30 **24** but it offends you. Maybe you say something; some people would,

02:27:39 **25** most people probably wouldn't. Most people probably wouldn't

-08:-39:-30 **1** ask that person to leave just because they offended them. It

-08:-39:-30 **2** doesn't mean that they agree with them. It doesn't mean they

-08:-39:-30 **3** approve of what the person said.

02:28:00 **4** This dinner meeting, by the way, was only the third

-08:-39:-30 **5** time that Griffin said something clearly, directly, and

-08:-39:-30 **6** unambiguously to Marwan. Now, Wassim and Mohammad happened to

-08:-39:-30 **7** be in the room, too, but what Griffin said, we're going to train

-08:-39:-30 **8** for jihad, and we'll cloak it in my security company. This is

-08:-39:-30 **9** only the third time. The first two were about the Ahmeds;

-08:-39:-30 **10** clear, unambiguous confirmation of his intent. We'll train for

02:28:37 **11** jihad and cloak it in my security company. Griffin admitted

02:28:44 **12** Marwan only said two words through this whole part of the

-08:-39:-30 **13** conversation. Marwan did talk when they went back to the

02:28:50 **14** computer. But during this conversation he barely said two

-08:-39:-30 **15** words.

-08:-39:-30 **16** Now, there was conversation without Griffin between

-08:-39:-30 **17** these three when they were eating dinner. And you heard

02:29:14 **18** translations of that. But they're talking about politics.

02:29:21 **19** There were two or three witnesses that said Arab men love to

-08:-39:-30 **20** talk about politics, and they get passionate about it. These

-08:-39:-30 **21** guys aren't talking about planning. They're talking about

-08:-39:-30 **22** what's right and wrong, what can and can't be done, but they're

02:29:37 **23** not talking about them doing it.

02:29:42 **24** Can we go back to that last picture?

02:29:55 **25** Mr. Griffin sat in that chair when he was

02:29:59 **1** questioned by the government and he told you that Marwan told  
-08:-39:-30 **2** him about an opportunity to work with some people in Egypt who  
02:30:05 **3** are trying to develop a camp. And he said that Marwan was  
02:30:12 **4** talking about a camp where it would be safe to train for jihad.  
-08:-39:-30 **5** However, on cross-examination, he admitted that the camp was  
02:30:28 **6** actually being put together by some members of the Egyptian  
-08:-39:-30 **7** police force and, not only that, they were looking for  
02:30:37 **8** investors. They had a business plan, and they had blueprints.  
02:30:45 **9** Even after all that came out, it was a struggle to get him to  
-08:-39:-30 **10** admit that this was a completely legitimate endeavor. Do you  
-08:-39:-30 **11** remember, Mr. Boss asked him: And do you think it's normal for  
02:30:58 **12** people setting up a terrorist training camp to have a business  
-08:-39:-30 **13** plan and seek investors? It was a little sarcastic, but it got  
02:31:07 **14** the point across.  
02:31:10 **15** What's more, you heard on the day that Marwan told  
-08:-39:-30 **16** Griffin about this opportunity, you heard another recording  
02:31:21 **17** between Griffin and Mr. Amawi, and Griffin tells Amawi: Oh,  
-08:-39:-30 **18** yeah, I got this opportunity in Egypt. And he says: It's not  
-08:-39:-30 **19** for jihad. Well, I'm sure that will come up. But listen to  
-08:-39:-30 **20** that recording. He says that day, "Not for jihad." But then  
-08:-39:-30 **21** he takes the stand right here and he tells you that Marwan told  
02:31:51 **22** him about this camp as a safe place to train for jihad. He's  
-08:-39:-30 **23** lying. And he's lying over and over again.  
02:32:10 **24** Now, look at that picture of him. Very straight,  
02:32:17 **25** looks good. That uniform just doesn't fit him anymore, and I

-08:-39:-30 **1** mean that figuratively. He may have served very honorably. He  
-08:-39:-30 **2** probably did. But he's become a disgrace to that uniform he  
02:32:37 **3** used to wear. His conduct here is reprehensible. He's a  
02:32:46 **4** liar, and he's a criminal, and he admitted to both of those  
02:32:53 **5** things. He took a huge amount of money from the government to  
02:32:59 **6** gather information, and then he set out to create a conspiracy,  
02:33:05 **7** or at least create the illusion of a conspiracy between these  
-08:-39:-30 **8** three men who sometimes were willing to listen, and who  
02:33:15 **9** sometimes said things.

02:33:21 **10** But Griffin, you want to talk about credibility of  
02:33:24 **11** witnesses? What credibility does this guy have? How can you  
-08:-39:-30 **12** believe anything that comes out of his mouth after he admits all  
-08:-39:-30 **13** the times that he lied? He admits that he lied to the  
-08:-39:-30 **14** government when they hired him. He admits that he lied to  
-08:-39:-30 **15** agents. And he lied to you, too. He has no credibility. And  
-08:-39:-30 **16** this is the man the government relied upon making its case, and  
-08:-39:-30 **17** did so without checking the truth of what he was telling them.

02:34:07 **18** Ladies and gentlemen, that's not how we're supposed  
-08:-39:-30 **19** to do things here in this country. It's not how we used to do  
02:34:15 **20** things. It's not how we did things before the War on Terror.  
02:34:23 **21** The government told you that Griffin had some mistakes in his  
02:34:31 **22** behavior as a young soldier and when he returned. Mistakes in  
02:34:36 **23** behavior? He's an admitted liar and criminal. Don't rely on  
02:34:41 **24** Griffin's words to figure out Marwan's intent. Listen to  
-08:-39:-30 **25** Marwan's words and evaluate the topics that Marwan himself

-08:-39:-30 **1** brought up over this three-year period that he was taped. Use  
02:34:57 **2** that and your common sense, and you'll see that there never was  
-08:-39:-30 **3** a conspiracy, just an illusion. And Marwan never even agreed  
-08:-39:-30 **4** to join the illusion, let alone to join a conspiracy. And he  
-08:-39:-30 **5** never had the intent that what he gave Griffin was going to be  
02:35:20 **6** used to kill American soldiers. It's really Griffin's intent  
-08:-39:-30 **7** that should be questioned here.  
02:35:31 **8** Remember all the talk about gathering information,  
-08:-39:-30 **9** and the government said that was his purpose. Griffin said  
-08:-39:-30 **10** that was his purpose. And then he said that a lot of the  
-08:-39:-30 **11** things that he did that we questioned were just gathering  
02:35:45 **12** information. I think probably the most important and telling  
02:35:54 **13** piece of evidence to show how Griffin went way, way beyond his  
02:36:01 **14** task of gathering information is his conversation with Agent  
-08:-39:-30 **15** Radcliffe on March 9.  
02:36:12 **16** Can you grab your headphones?  
02:36:38 **17** (Audio is played.)  
02:37:22 **18** MR. HARTMAN: "We will get them together to train."  
-08:-39:-30 **19** "I'll do the greater good thing and all that and smooth that  
02:37:35 **20** over, so we'll get them together and train, so it's no big  
02:37:40 **21** deal."  
02:37:42 **22** I want you to remember that when you go back there  
-08:-39:-30 **23** to deliberate. We will get them together to train. He didn't  
-08:-39:-30 **24** say: I'll stay close, and I'll see if they can patch things up.  
-08:-39:-30 **25** He didn't say, I'll tell them that I'm going to go training, and

-08:-39:-30 **1** I'm going to train people, and I'll ask them if they want to  
-08:-39:-30 **2** join me. He said: We will get them together to train. Does  
-08:-39:-30 **3** that bother you as much as it bothers me? This is not how  
02:38:19 **4** we're supposed to do things. This is not what this country  
-08:-39:-30 **5** stands for. That's not the American way, and it shouldn't be  
-08:-39:-30 **6** allowed.  
02:38:39 **7** You know, it's not just that Griffin had an agenda  
-08:-39:-30 **8** like that, but our government tacitly endorsed these very direct  
-08:-39:-30 **9** and concerted efforts to get these men together, to get these  
02:39:02 **10** men to train. In hindsight Griffin's intent is clear  
02:39:05 **11** throughout. He was trying to get people to say things. He  
02:39:08 **12** was trying to get people to do things. And he was trying to,  
-08:-39:-30 **13** as he put it, get them together to train. And he did this all  
-08:-39:-30 **14** to create what looked like some kind of conspiracy. Now,  
02:39:27 **15** whether he did it to keep the investigation going, to keep the  
-08:-39:-30 **16** money coming in, or whether he did it out of some kind of secret  
-08:-39:-30 **17** agent/superhero fantasy, or whether he did it out of just a  
02:39:42 **18** misguided sense of patriotism doesn't matter. The fact is, it's  
-08:-39:-30 **19** wrong. It's wrong what he did. But you can't use what he did  
02:40:00 **20** to infer what Marwan agreed to or what Marwan intended.  
02:40:16 **21** You know, if it's okay to do this to the Muslim  
02:40:22 **22** community, who's next? Who knows. A man like Marwan, he came  
-08:-39:-30 **23** here to go to school; he became a citizen, which is the dream of  
-08:-39:-30 **24** so many people. He's raising his children, and he's getting by  
02:40:44 **25** the best way he can. Does he deserve this kind of

02:40:48 **1** manipulation? Do you? Of course you don't. Neither does he.

-08:-39:-30 **2** But the fact is, all the manipulation in the world can't show

-08:-39:-30 **3** agreement and can't show intent.

02:41:18 **4** You know, a lot of what the government talks about

02:41:22 **5** is words, but actions speak louder than words. Ask yourselves

-08:-39:-30 **6** when you're deliberating what actions Marwan took to further the

-08:-39:-30 **7** conspiracy. What actions did any of these men take to further

02:41:49 **8** a conspiracy, real action that the government proved was to

-08:-39:-30 **9** further a conspiracy? There are a lot of times people say

-08:-39:-30 **10** things that are different from what they do, but what's more

-08:-39:-30 **11** important, what they say or what they do? These guys didn't do

-08:-39:-30 **12** anything. I'm representing Marwan, I'm talking mostly about

-08:-39:-30 **13** him. He never did anything to further a conspiracy. He never

02:42:37 **14** did anything that can show you he had the intent to kill

02:42:41 **15** American soldiers. No soldiers were killed. No support was

-08:-39:-30 **16** ever given to any terrorist training group. None of that

-08:-39:-30 **17** happened. Nothing was going to happen when these men were

02:42:54 **18** arrested. Whatever the government says about the timing of the

-08:-39:-30 **19** arrest, it doesn't matter because nothing was going to happen.

-08:-39:-30 **20** And if nothing was going to happen, doesn't that mean it's most

02:43:09 **21** likely that nothing was agreed to?

02:43:18 **22** The government told you in the first line of its

02:43:22 **23** opening statement: This is a terrorism case. Well, it's not

02:43:31 **24** exactly a terrorism case. I would submit to you that it's more

-08:-39:-30 **25** than that. It's a case about how we do things, how we treat

02:43:48 **1** people who are different than we are; and it's a case about --  
02:43:59 **2** forgive me -- truth, justice, and the American way. I know  
-08:-39:-30 **3** that sounds a little corny, maybe a little trite, but that  
02:44:11 **4** doesn't make it any less true. Is this the American way?  
02:44:25 **5** What's justice here?  
02:44:28 **6** It's completely, completely understandable and  
02:44:34 **7** applaudable that the FBI would decide to become preemptive in  
02:44:39 **8** the post 9/11 world, try stop things before they happen. We can  
-08:-39:-30 **9** all understand that, and I think we all would support that. I  
-08:-39:-30 **10** do. But in this case they relied on an informant who went way  
-08:-39:-30 **11** overboard, particularly when you consider the standard for a  
-08:-39:-30 **12** criminal conviction. Griffin lied so much to those FBI agents  
02:45:13 **13** that they had no idea that they should have ranged him in.  
-08:-39:-30 **14** This isn't their fault. They had no idea what was really going  
02:45:23 **15** on. Never told them what was really going on. He'd say, I'd  
02:45:33 **16** give them the recordings. Well, he never reviewed the  
02:45:36 **17** recordings with them. Agent Radcliffe, who was soon to retire,  
02:45:40 **18** told you sometimes he didn't listen to recordings until they'd  
02:45:44 **19** leave. How could he know he was lying.  
02:45:55 **20** If there is to be justice in this courtroom, then  
-08:-39:-30 **21** Darren Griffin's conduct cannot be condoned. But more  
02:46:07 **22** importantly, it cannot be twisted around to conclude that Marwan  
02:46:15 **23** El-Hindi ever had the intent to join any conspiracy or ever had  
-08:-39:-30 **24** the intent to help kill American soldiers because it just didn't  
-08:-39:-30 **25** happen.



-08:-39:-30 **1** The government has the burden of proof throughout  
02:46:36 **2** this, and that means Mr. Sofer gets the last word. I hate  
-08:-39:-30 **3** that, but he gets the last word. I don't know what he's going  
-08:-39:-30 **4** to say. I'm sure it's going to be compelling. But whatever  
-08:-39:-30 **5** is said, please, please, please don't forget to look at the big  
02:47:01 **6** picture.

02:47:10 **7** Proof beyond a reasonable doubt, like the Judge  
02:47:13 **8** told you, is the kind that -- I think it says you would not  
-08:-39:-30 **9** hesitate to rely on it in making the most important decisions in  
-08:-39:-30 **10** your lives. Ladies and gentlemen, not only did the government  
02:47:31 **11** not get there, we don't even get close to that. The only thing  
02:47:40 **12** standing between Darren Griffin, his conduct, and the grave  
02:47:45 **13** injustice of Marwan getting convicted is you folks, the people  
-08:-39:-30 **14** in this box, and how you feel about truth and justice and the  
02:48:03 **15** American way.

02:48:07 **16** I want to thank you very, very much for your  
02:48:10 **17** attentiveness. It's been a very important matter. Marwan  
-08:-39:-30 **18** wanted to thank you as well. We appreciate what you're doing  
-08:-39:-30 **19** and your service. Thanks for your time this morning.

02:48:39 **20** THE COURT: Ladies and gentlemen, will you stand  
02:48:41 **21** and stretch for a moment, please? Counsel, come on up a  
02:48:44 **22** second.

02:50:17 **23** (Whereupon the following discussion was had at the  
-08:-39:-30 **24** bench outside the hearing of the jury:)

-08:-39:-30 **25** THE COURT: Jeff.

-08:-39:-30 **1** MR. HELMICK: What time do you need to break?

-08:-39:-30 **2** THE COURT: About quarter of. Can we get started?

-08:-39:-30 **3** It will probably be 2:00 before we get started, in all candor.

-08:-39:-30 **4** If you prefer not, we'll recess now.

-08:-39:-30 **5** MR. HELMICK: Why don't we go ahead and get

-08:-39:-30 **6** started. I'll watch the clock. Just give me a signal when we

-08:-39:-30 **7** get close.

-08:-39:-30 **8** (End of side-bar discussion.)

02:50:22 **9** THE COURT: Ladies and gentlemen, because we're

-08:-39:-30 **10** running a bit more slowly than I thought, and that's not any

02:50:31 **11** comment or criticism at all, just the way things are going, Mr.

02:50:36 **12** Helmick will start his closing statement for Mr. Mazloun. We'll

02:50:45 **13** go maybe 20, 25 minutes or so. Then we will recess as today is

02:50:50 **14** the annual luncheon for the Bar Association which I'll be

02:50:54 **15** attending. We probably will recess until at least 1:30. We'll

02:51:01 **16** hope to start promptly then. We fully expect to complete and

-08:-39:-30 **17** have the case in your hands by late afternoon.

02:51:18 **18** MR. HELMICK: I need a couple minutes, Judge.

02:53:44 **19** If you have any trouble hearing me, it's usually

-08:-39:-30 **20** not a problem, but if you do, please raise your hands or say so.

-08:-39:-30 **21** The same thing with pace or speed or anything as we get going.

02:54:00 **22** When I give an argument, I often like to use a lot

-08:-39:-30 **23** of slides, so you're going to know where I'm going, I hope, and

02:54:09 **24** maybe it will make a little bit more sense to you as we go

-08:-39:-30 **25** forward as you see bullets or slides appear on the screen. All

-08:-39:-30 **1** right.

-08:-39:-30 **2** Again, if I get going too fast in any way, either  
02:54:20 **3** speaking or something that you wanted to see on the screen,  
02:54:24 **4** please just signal and let me know. You haven't been a bashful  
02:54:28 **5** jury by any means; don't start now, today.

02:54:32 **6** First, just a quick review of the charges. As you  
02:54:35 **7** probably remember, my client, Wassim Mazloun -- our client,  
-08:-39:-30 **8** Wassim Mazloun, is charged in only Counts 1 and 2 of the  
-08:-39:-30 **9** indictment: Count 1 charging a conspiracy; Count 2, material  
-08:-39:-30 **10** support. You know from the instructions His Honor gave you  
-08:-39:-30 **11** last week that there are a number of elements that the  
02:54:52 **12** government has to prove. Among them, of course, is that a  
-08:-39:-30 **13** conspiracy was formed. You've got some detailed instruction on  
-08:-39:-30 **14** that.

-08:-39:-30 **15** Also -- this will be a large focus of the argument  
02:55:03 **16** today -- even if there was a conspiracy, that Wassim Mazloun did  
-08:-39:-30 **17** not join it because his purpose was not the same criminal  
-08:-39:-30 **18** purpose that was offered by Mr. Griffin.

02:55:16 **19** We're not disputing the fact that he went to  
-08:-39:-30 **20** training, that he went to the shooting range twice, or anything  
02:55:23 **21** else. The question is purpose and intent.

02:55:28 **22** The evidence will support that Wassim's intent was  
-08:-39:-30 **23** for training, for lawful purposes, understandable purposes; that  
-08:-39:-30 **24** he never attempted to pursue it for unlawful purposes. And that  
-08:-39:-30 **25** another issue that you're going to have in the case is one with

02:55:45 **1** regard to communication, the fact that he is perhaps the poorest  
02:55:49 **2** English speaker that you've heard through the case because of  
-08:-39:-30 **3** his native Arabic language.

02:55:56 **4** Some suggestions for you as you proceed forward in  
-08:-39:-30 **5** your deliberations at analyzing the evidence. First, look at  
-08:-39:-30 **6** the broad context. Step back and look at that broader context.  
02:56:09 **7** The Court's instruction, after all, is to consider all the  
-08:-39:-30 **8** evidence. You, of course, are the determiners of what evidence  
02:56:15 **9** should or should not be believed and how much weight to be  
02:56:18 **10** assigned to that evidence, but should consider all of it as you  
-08:-39:-30 **11** go through. So don't look at isolated statements or evidence in  
02:56:26 **12** a vacuum; consider everything overall.

02:56:30 **13** Both sides, I think, fairly point to a handful of  
-08:-39:-30 **14** evidence on one hand. That one side that shows inescapable  
-08:-39:-30 **15** guilt, the other side points to statements or evidence that tend  
02:56:46 **16** to show non-guilt. Don't look simply or cherry-pick at those  
02:56:51 **17** isolated things, but look at everything together and see if it  
-08:-39:-30 **18** makes sense to you. And when you do, you'll conclude that the  
-08:-39:-30 **19** government has fallen short of its heavy burden of proof beyond  
-08:-39:-30 **20** a reasonable doubt in this case. In that broader view of the  
-08:-39:-30 **21** evidence, keep in mind that there's evidence that Wassim wanted  
-08:-39:-30 **22** to train to learn defense of himself and for his family. We're  
02:57:13 **23** going to talk about that a little bit later with the argument.  
-08:-39:-30 **24** Also, as a non-U.S. citizen, he may have been or had to return  
-08:-39:-30 **25** to Lebanon at some future point.

02:57:24 **1** Regardless, he wanted the option of returning there  
-08:-39:-30 **2** because he had family there, and he might even meet someone and  
02:57:32 **3** consider possibly marrying and relocating. You heard testimony  
-08:-39:-30 **4** of that effect. You heard it from him throughout the  
02:57:40 **5** recordings that were made by Mr. Griffin, and you heard it from  
02:57:43 **6** members of his family as well.

-08:-39:-30 **7** And finally there is a legitimate religious  
-08:-39:-30 **8** obligation in Islam to learn to protect one's family and one's  
-08:-39:-30 **9** self.

02:57:53 **10** And finally, that military service requirement in  
02:57:57 **11** Lebanon, which you also heard about. He talked about it on the  
-08:-39:-30 **12** recordings that Mr. Griffin made, and you heard family talk  
-08:-39:-30 **13** about it as -- when we put on our case in chief towards the end.

02:58:10 **14** Keep in mind sometimes Mr. Griffin was deliberately  
-08:-39:-30 **15** vague and manipulative. That was part of his job. That's  
-08:-39:-30 **16** part of what it means to go undercover. And you heard testimony  
-08:-39:-30 **17** about that from him as well as from Agent Coats about the  
-08:-39:-30 **18** necessity of kind of feeling people out, testing the waters,  
-08:-39:-30 **19** maybe not being as clear as you might want to be clear for fear  
-08:-39:-30 **20** of possibly scaring someone off. And that's a product of the  
-08:-39:-30 **21** DEA and drug investigations. So there was some vagueness in  
-08:-39:-30 **22** the proposals that Mr. Griffin made.

02:58:47 **23** Also a big issue in the case, and the government  
-08:-39:-30 **24** has highlighted this, secrecy versus discretion. And what do I  
02:58:54 **25** mean by that? The government has repeatedly pointed to

02:58:57 **1** examples which they believe show that there was this great need  
02:59:01 **2** for secrecy. We have to hide what we're doing because it's  
02:59:05 **3** illegal, because we're training the jihadists to commit a  
-08:-39:-30 **4** terrorist act. But I suggest to you a fair interpretation of  
02:59:13 **5** the evidence, particularly with regard to Wassim, is that it was  
02:59:16 **6** actually just good common sense discretion under the  
-08:-39:-30 **7** circumstances at that time. And we'll get into that in a  
02:59:23 **8** little bit.

02:59:25 **9** Mr. Griffin was running the show. That's, I think,  
02:59:28 **10** pretty clear and evident from the evidence in terms of bringing  
-08:-39:-30 **11** people together and setting an agenda. It's there. And he  
-08:-39:-30 **12** held himself out -- legitimately, by the way -- as an elite and  
02:59:42 **13** uniquely qualified person to train based upon the extensive  
-08:-39:-30 **14** experience that he received.

02:59:47 **15** He also, for men who might not have agreed with the  
-08:-39:-30 **16** military political view of U.S. soldiers or even the polar view  
-08:-39:-30 **17** in this country, he held himself out as somebody apologizing for  
-08:-39:-30 **18** things that the U.S. military did abroad, including killing  
03:00:08 **19** innocent civilians abroad. All of that made him appealing to  
-08:-39:-30 **20** them in terms of what he had to say. So for Wassim, Mr.  
-08:-39:-30 **21** Griffin had some understanding of the Arabic culture. For  
-08:-39:-30 **22** Wassim, he had Special Forces training; he had unique -- not  
-08:-39:-30 **23** unique, but very unusual military training. You might remember  
03:00:30 **24** Mr. Griffin said at one point he had millions and millions of  
03:00:33 **25** dollars' worth and over 14 years in the military. He, frankly,

-08:-39:-30 **1** had a pretty distinguished career in terms of the training he  
-08:-39:-30 **2** received.

-08:-39:-30 **3** Wassim, though, you remember, had no training in  
-08:-39:-30 **4** defense of self or family. You remember that from his mother's  
03:00:50 **5** testimony back in Lebanon, and you also remember that from his  
03:00:53 **6** inexperience in handling a handgun at the shooting range.

03:00:57 **7** Just as a preview of where we're going today, I

-08:-39:-30 **8** don't expect to be terribly long. We're going to review a

-08:-39:-30 **9** timeline of Wassim's limited contacts with Darren Griffin.

03:01:10 **10** From the fall of 2004 to February, 2006, there's only a total of

03:01:17 **11** eight contacts between Mr. Griffin and Wassim. We're going to

-08:-39:-30 **12** review each one in some detail, and we'll start out a little

-08:-39:-30 **13** front-heavy in terms of detail, then we'll move a little quicker

-08:-39:-30 **14** as we go through those other dates through the end of those

-08:-39:-30 **15** eight dates. And after reviewing each date, you'll see

03:01:36 **16** clearly, we believe, that Wassim's purposes were not those of

-08:-39:-30 **17** Mr. Griffin or anyone else. They were both lawful and

03:01:46 **18** understandable under the circumstances.

03:01:50 **19** So if we want to just quickly review a timeline, I

03:01:53 **20** know it is small, but relax, because we're actually going to

-08:-39:-30 **21** work through this step-by-step as we go through the date. We

-08:-39:-30 **22** also have a hard copy you can review later. But you'll notice

-08:-39:-30 **23** here on 10-21 is the first mention or indication of him, Mr.

-08:-39:-30 **24** Griffin, asking, well, maybe Wassim would like to come and join

-08:-39:-30 **25** us. He's asking Mohammad Amawi. The first date that Wassim is

03:02:17 **1** actually involved in the case, though, is on November 17 of '04.

03:02:24 **2** There isn't going to be any dispute about that. There seems to

03:02:27 **3** be complete agreement about that. As we move through, his next

-08:-39:-30 **4** real contact, though, isn't until about three months later,

-08:-39:-30 **5** until February 16. That's the dinner meeting or what we

-08:-39:-30 **6** characterize as the proposal meeting that was at Mr. El-Hindi's

-08:-39:-30 **7** house.

03:02:45 **8** After that there's a meeting on 4/13. This is the

-08:-39:-30 **9** second time of a meeting that Wassim thinks he's going to be

-08:-39:-30 **10** going training, just going to the shooting range. He thinks

-08:-39:-30 **11** it's true on February 16; he thinks it's true again on April 13,

-08:-39:-30 **12** that they're going to have a meeting. He finally, on April 20,

-08:-39:-30 **13** goes to the shooting range for the first time. And then on

-08:-39:-30 **14** April 29, nine days later, goes for the second and last time to

-08:-39:-30 **15** the shooting range.

03:03:16 **16** There's a telephone call between Mr. Griffin and

03:03:22 **17** Mazloun on May 2. Again, we're going to go over all these and

-08:-39:-30 **18** hit each date in some detail; some more than others. Then

-08:-39:-30 **19** there's a large, approximately five-month gap until September 29

03:03:36 **20** where Mr. Griffin comes by unannounced, uninvited, at Mr.

-08:-39:-30 **21** Mazloun's place of work, the car lot. And then finally after

-08:-39:-30 **22** that, about four months later, the final time on January 30 of

-08:-39:-30 **23** '06, same thing, at the car lot, unannounced, uninvited in a

03:04:00 **24** personal context for Wassim. We ask that you think or remember

03:04:03 **25** that he's working to support himself, his family; that is, his



03:04:08 **1** mother and his two younger sisters and younger brother, and  
-08:-39:-30 **2** getting his education. By this time he's attending the  
03:04:16 **3** University of Toledo during this time frame, the College of  
03:04:19 **4** Engineering, as a computer science major. And he's only  
03:04:23 **5** irritated or expresses anger or outrage in this case when he  
-08:-39:-30 **6** thinks he's going to the shooting range to learn how to shoot a  
-08:-39:-30 **7** gun, and he's not, and then also Muslim training under the  
03:04:35 **8** Hadith. That's in your glossary. Basically that requirement  
03:04:40 **9** is to learn to defend one's self and one's family as a good  
03:04:46 **10** Muslim.  
-08:-39:-30 **11** Griffin uses this duty -- theme of a duty to train  
-08:-39:-30 **12** in meeting with the defendants; in particular, Wassim. It's a  
03:04:55 **13** legitimate religious duty to train for self and for family, not  
-08:-39:-30 **14** for a holy war as has been suggested here. On  
03:05:03 **15** cross-examination by David Doughten, on April 24 Mr. Griffin was  
03:05:10 **16** asked this:  
-08:-39:-30 **17** Question: You were trying to prepare? Let me ask  
-08:-39:-30 **18** you another question. One of the things that you were  
-08:-39:-30 **19** convincing them, that being the three defendants, is that they  
-08:-39:-30 **20** had a duty to train, correct?  
03:05:23 **21** Mr. Griffin: They had a duty.  
03:05:26 **22** Mr. Doughten then asked: A duty to train, to learn  
03:05:30 **23** how to use weapons in self-defense; that's one of the things you  
03:05:33 **24** were presenting that you could provide to them?  
03:05:35 **25** Mr. Griffin says: Yeah, as far as weapons for

03:05:38 **1** training.

-08:-39:-30 **2** Mr. Doughten then asked him: And that was

03:05:41 **3** consistent with the Islamic commandment that you be prepared,

-08:-39:-30 **4** that you had a duty to prepare yourself for self-defense?

-08:-39:-30 **5** Mr. Griffin said: Possibly, the way I interpreted

-08:-39:-30 **6** it.

-08:-39:-30 **7** Then the next question: And that was discussed

-08:-39:-30 **8** this evening, wasn't it?

03:05:56 **9** Mr. Griffin: I believe so.

03:05:59 **10** Again, this is referring to the outset of his

03:06:03 **11** proposal in the case.

03:06:04 **12** Also remember, again, he's not a citizen. There is

-08:-39:-30 **13** no certainty for Wassim of continued residency, and there is

03:06:11 **14** that whole need or need and desire to train, understandably, for

03:06:18 **15** Lebanon. Not to kill U.S. soldiers. There's a lot of big

03:06:22 **16** talk on some of these recordings with Arab men and their

03:06:26 **17** practical obsession with politics. Mikhail Al-Mozrouei

-08:-39:-30 **18** testified; he's the Muslim convert that testified: Oh, yes,

-08:-39:-30 **19** there's a great deal of time spent doing that, great deal of

-08:-39:-30 **20** talk. Again, from Darren Griffin when he was asked as well

03:06:40 **21** about whether that was a big part of the Muslim or Arabic

03:06:44 **22** culture, he acknowledged it was. And you combine that with

03:06:47 **23** machismo, just young men -- I'm sure none of you know what I'm

-08:-39:-30 **24** talking about when I say that -- but if you combine that with

03:06:56 **25** machismo, then you get this on cross from Mr. Doughten of Mr.

03:07:00 **1** Griffin:

-08:-39:-30 **2** Question: Did you have discussions about politics  
-08:-39:-30 **3** and such things with them during this time?

03:07:07 **4** Mr. Griffin: Yes.

-08:-39:-30 **5** Mr. Doughten: Actually having discussions with  
03:07:11 **6** Arabic men about politics is pretty normal, I guess, for lack of  
03:07:14 **7** a better term?

-08:-39:-30 **8** Mr. Griffin said: Yes.

03:07:17 **9** I don't know, this is my word -- that is, Mr.

-08:-39:-30 **10** Doughten's word -- you can use your own word, but in some ways  
03:07:24 **11** sometimes they're obsessed with politics; wouldn't that be fair  
-08:-39:-30 **12** to say?

-08:-39:-30 **13** Mr. Griffin says: Yes, I would say.

-08:-39:-30 **14** And remember, he was invited to choose his own  
-08:-39:-30 **15** word, and he didn't. He apparently agreed with Mr. Doughten's  
-08:-39:-30 **16** word, even though he was given the option of selecting his own.

-08:-39:-30 **17** Let's talk briefly about secrecy versus discretion  
-08:-39:-30 **18** before our break. I addressed this a short time ago about the  
-08:-39:-30 **19** government's argument that they were acting in secrecy to avoid  
-08:-39:-30 **20** criminal conduct versus a concept of discretion. I just ask  
-08:-39:-30 **21** you to keep an open mind in that regard, to try and  
03:08:05 **22** differentiate between what is discretion and what is secrecy.

03:08:09 **23** Think back to late 2004, just in your own mind and  
-08:-39:-30 **24** your own calendar and your own dates and the assumptions that  
03:08:15 **25** were made. Now imagine being Muslim with a beard. It's just

03:08:19 **1** a little more than three years past the attacks of September 11.  
-08:-39:-30 **2** And we've all had experiences where we've been in an airport or  
-08:-39:-30 **3** some other place; we see someone who appears to be of Middle  
-08:-39:-30 **4** Eastern origin. And they're there, perhaps even with a beard,  
-08:-39:-30 **5** and they're either talking to someone in Arabic or they're  
-08:-39:-30 **6** talking on a cell phone in Arabic, or they're saying prayers.  
-08:-39:-30 **7** And it made me uneasy. It might have made you uneasy at that  
-08:-39:-30 **8** time. So that's the climate that we live in, particularly as  
-08:-39:-30 **9** you back date closer and closer to September 11.  
03:08:55 **10** For Wassim, he's not hiding any secret intent.  
-08:-39:-30 **11** He's afraid that people will misunderstand a lawful purpose for  
03:09:05 **12** an unlawful.  
03:09:09 **13** Now, if we go through the dates, please keep in  
03:09:13 **14** mind some of the things we just talked about when you're  
03:09:17 **15** reviewing and going over the evidence. Again, the first  
-08:-39:-30 **16** contact with Wassim and Mr. Griffin is at the beginning here on  
03:09:23 **17** November 17 of '04. Right in here.  
03:09:32 **18** MR. HELMICK: Judge, would now be a good time to  
-08:-39:-30 **19** break?  
-08:-39:-30 **20** THE COURT: Good.  
03:09:38 **21** MR. HELMICK: Thank you.  
03:09:38 **22** (Lunch recess taken.)  
03:09:38 **23** (The jury is not present.)  
-08:-39:-30 **24** MR. SOFER: Your Honor, we have identified a  
05:01:08 **25** potential issue on the verdict sheet. I just wanted to bring

05:01:12 **1** it to your attention. Amy's making copies of it now, but we  
-08:-39:-30 **2** believe as a result of the Appendi case there actually has to  
-08:-39:-30 **3** be a special verdict form because if the jury were to find the  
05:01:22 **4** defendant intended to maim people overseas rather than kill  
05:01:29 **5** people overseas, it changes the penalties from a statutory  
-08:-39:-30 **6** standpoint. So we're going to get copies. We'll get copies  
-08:-39:-30 **7** to defense counsel of the relatively minor change, but I thought  
-08:-39:-30 **8** we could bring it up now.  
-08:-39:-30 **9** THE COURT: Problems from the defense side?  
05:01:46 **10** MR. BOSS: No problem.  
05:01:48 **11** MR. DOUGHTEN: Unfortunately, I believe the  
05:01:52 **12** government is correct; there does need to be a special verdict.  
05:01:56 **13** MR. BRYAN: That's correct.  
05:02:38 **14** (Jury enters the courtroom.)  
05:02:44 **15** THE COURT: Mr. Helmick, you may resume. If you  
-08:-39:-30 **16** want to back up a tad.  
05:02:50 **17** MR. HELMICK: Maybe just one slide. I'll let  
-08:-39:-30 **18** everybody get settled.  
05:03:04 **19** I trust everyone's well fed and, hopefully, rested  
05:03:08 **20** a little bit. Hopefully there will be no attack of the  
05:03:12 **21** afternoon sleepies, at least as long as I'm up here.  
-08:-39:-30 **22** We left on November 17, 2004. That was the first  
-08:-39:-30 **23** of the dates we discussed on the timeline in terms of contact  
05:03:23 **24** between Mr. Griffin and Wassim. This is actually the slide we  
-08:-39:-30 **25** left off on. Again, it was the first time they were together.

05:03:31 **1** This first meeting is important because it forms the framework  
05:03:34 **2** for viewing Wassim's actions throughout the rest of the case all  
-08:-39:-30 **3** the way through the end of January or into February of 2006.  
05:03:42 **4** It also significantly upfront states its purpose  
-08:-39:-30 **5** for interest in training as well, and that proof of purpose is  
05:03:54 **6** consistent from this point forward as the evidence continues and  
-08:-39:-30 **7** the relevant dates continue. We just have a disagreement with  
-08:-39:-30 **8** the government about exactly what that evidence means or what  
05:04:07 **9** that convinces by way of evidence. That's really our  
-08:-39:-30 **10** difference. We agree he said the things the government says he  
-08:-39:-30 **11** said. So we don't have a dispute with translation issues here  
-08:-39:-30 **12** that you're going to hear about -- transcription issues or what  
05:04:24 **13** you hear in the recordings versus what we think is there. And  
-08:-39:-30 **14** we also agree with what he did in terms of basic acts; that is,  
-08:-39:-30 **15** attending these meetings and going to the shooting range twice,  
05:04:36 **16** and even buying a paintball gun on May 2, 2005. That's not  
-08:-39:-30 **17** where the difference lies.  
05:04:43 **18** Now, the government argued that the phone  
05:04:46 **19** conversation just days before November 17, that that defined the  
-08:-39:-30 **20** tone and purpose of the meeting on November 17. And if you  
-08:-39:-30 **21** remember, that was a conversation on the telephone that was  
05:04:59 **22** recorded by Mr. Griffin that was between Mohammad Amawi and  
-08:-39:-30 **23** Wassim Mazloun. On that conversation Mohammad Amawi is  
05:05:10 **24** inviting him over to meet Darren Griffin. The difference that  
-08:-39:-30 **25** we have with the government is about the importance or meaning

05:05:17 **1** of that telephone call in which Mr. Amawi said words to the  
-08:-39:-30 **2** effect of: Well, we're going to talk about that thing that we  
05:05:25 **3** discussed. And the government seemed to think that there was  
-08:-39:-30 **4** somehow something sinister about that reference. But we argue  
05:05:34 **5** that, in fact, that that's not the reasonable inference; that's  
-08:-39:-30 **6** not evidence of what the government would have you believe, and  
-08:-39:-30 **7** that there's better evidence. And that evidence is from  
05:05:49 **8** November 17 itself when they all get together. And in fact,  
-08:-39:-30 **9** it's a statement by Mr. Amawi at the start of the meeting on  
-08:-39:-30 **10** November 17, with only Mr. Griffin, Wassim, and Mr. Amawi, from  
05:06:05 **11** which that comes forth.

-08:-39:-30 **12** This is not an issue of secrecy. Again, this is an  
05:06:11 **13** issue of discretion. At the outset you might remember that  
05:06:15 **14** what Mr. Amawi says is this. If you could just take a look at  
05:06:19 **15** this together. I'm just going to give you a moment to read it  
-08:-39:-30 **16** over, then I'm going to break down the statement.

05:06:43 **17** Okay. And the import of this statement is again,  
05:06:48 **18** breaking it down, Mr. Amawi says first, basically: Uh, I mean,  
-08:-39:-30 **19** he was asking about, you know, security and stuff and these  
-08:-39:-30 **20** things.

-08:-39:-30 **21** And by the way, unmistakably, if you want to go  
-08:-39:-30 **22** back and listen to it, here is Wassim Mazloun. He has just met  
-08:-39:-30 **23** Mr. Griffin. They have that banter back and forth about I've  
-08:-39:-30 **24** seen him at the Mosque, although they haven't been formally  
-08:-39:-30 **25** introduced and talk, Wassim and Mr. Griffin, until this

-08:-39:-30 **1** particular date.

-08:-39:-30 **2** He then says none of the Muslims actually does have

-08:-39:-30 **3** any problem learning how to actually learn how to use the

05:07:25 **4** weapons and stuff, guns and automatic weapons an all that.

05:07:32 **5** But, uh, just regarding the, uh -- you know, the safety and

-08:-39:-30 **6** stuff because of all the craziness.

05:07:39 **7** Because of all the craziness. An unmistakable

05:07:43 **8** reference to fear, or otherwise, or just paranoia that Muslims

05:07:49 **9** felt around the world after 9/11, and particularly some people

-08:-39:-30 **10** in America, in terms of all the craziness. Those fears --

-08:-39:-30 **11** again, real or imagined -- that they had is what he's referring

-08:-39:-30 **12** to when he says that in a post-9/11 world. So ask yourself

-08:-39:-30 **13** this: Which is the more reliable evidence as to Wassim's intent

-08:-39:-30 **14** and purpose at the outset of 11/17? Is it the phone call a few

-08:-39:-30 **15** days before where Mr. Amawi makes a general reference to the

-08:-39:-30 **16** Mohammad Amawi matter we discussed, or is it the purpose that's

05:08:21 **17** stated clearly by Mohammad Amawi introducing Wassim Mazloun to

05:08:27 **18** Mr. Griffin? And we suggest to you clearly that it's the

05:08:31 **19** latter.

05:08:34 **20** Mr. Griffin does nothing during the course of this

05:08:37 **21** meeting on November 17 to dispel this notion to Wassim, that is,

-08:-39:-30 **22** Mr. Amawi states the purpose. There's no correction. There's

-08:-39:-30 **23** no, well, yeah, that, and violent jihad. There's nothing like

-08:-39:-30 **24** that that's said during that time. In fact, Mr. Griffin goes

-08:-39:-30 **25** on to tell Wassim and Mr. Amawi about training and duty in this



05:09:06 1 exchange. I'll draw your attention in particular to the second  
05:09:09 2 entry or line by Mr. Griffin: You know so, and, you know, it  
05:09:09 3 says in the Qur'an that we must prepare anyway.  
05:09:09 4 Then Mr. Amawi gives a quotation presumably from  
05:09:09 5 the Qur'an: We must, and so forth.  
05:09:09 6 Wassim then says: Yeah, you know the situation at  
05:09:09 7 the bottom. The situation is very sensitive.  
05:09:27 8 Now, I want to play a clip from around this time on  
05:09:31 9 November 17, 2004.  
05:09:34 10 You already know to start reaching for your  
05:09:34 11 headsets. I want you to listen for clear examples of two  
05:09:40 12 issues. The first, Griffin being one of the elite. The next,  
05:09:40 13 this whole issue of secrecy versus discretion, which is it? Is  
05:09:40 14 it trying to hide illegal activity, or is it just using good  
05:09:40 15 sense with an understandable concern of what might happen or  
05:09:40 16 what might be said?  
05:09:40 17 So this is 1D-10. It's from November 17, 2004.  
05:09:40 18 If you'll just give me a moment, I'm going to switch the input.  
05:10:20 19 This is 1D-10, November 17, 2004.  
05:10:24 20 (Audio is played.)  
05:11:05 21 MR. HELMICK: Just pausing it right there for a  
05:11:05 22 moment, if I may. This is where Mr. Griffin is kind of  
05:11:12 23 establishing he's bona fide. He's indicated this is my  
05:11:12 24 training. You can see significantly that Wassim is impressed  
05:11:12 25 by this. He's one percent of the one percent. The elite.

-08:-39:-30 **1** That he's a ranger. And that he has that special training.

-08:-39:-30 **2** And for someone like Wassim, who, remember, is only 23 or 24 at

-08:-39:-30 **3** this time, he was born in 1981, for him, that's impressive. To

-08:-39:-30 **4** meet somebody like this that has that type of training is

-08:-39:-30 **5** impressive.

05:12:32 **6** (Audio is played.)

-08:-39:-30 **7** MR. HELMICK: Okay. Let me just switch back here

-08:-39:-30 **8** to lectern PC. Okay.

-08:-39:-30 **9** Wassim's first reference is "sensitive." Why is

05:12:52 **10** it sensitive? It's because he's a Muslim with a beard

-08:-39:-30 **11** post-9/11. Not because of any illegal activity. Wassim says

-08:-39:-30 **12** at a later time: Why not learn to defend myself? And there's

05:13:05 **13** a number of dynamics at work here. Wassim's very taken, as I

-08:-39:-30 **14** said, with Darren Griffin's background and experience. He

-08:-39:-30 **15** maybe perhaps never met anyone quite like him before who he

-08:-39:-30 **16** himself has no training.

05:13:19 **17** Another statement around this time by Mr. Amawi.

05:13:23 **18** You can refer to your monitors now on this. A general

-08:-39:-30 **19** statement again of: I want to learn; I want to help protect

05:13:30 **20** myself and my family. Well, Wassim is hearing all this while

-08:-39:-30 **21** he's at the meeting in terms of purpose at the outset in his

05:13:38 **22** first meeting with Mr. Griffin. And Mr. Griffin says this is

-08:-39:-30 **23** just the basic here, and we'll get going on the training.

05:13:52 **24** Wassim said, as you'll recall from the excerpt you

05:13:57 **25** just heard: Here you go, the terrorists are coming, in terms of

-08:-39:-30 **1** how they are going to be viewed. That statement is consistent  
05:14:06 **2** with fear in terms of discretion, not fear of discovery. Why  
05:14:12 **3** not say for someone who struggles with English, for example,  
-08:-39:-30 **4** they'll find out what we're really doing; they'll suspect us,  
-08:-39:-30 **5** what we're really doing. He doesn't say that. He says: Here  
05:14:24 **6** you go, they're terrorists because they are Muslim men who are  
05:14:29 **7** training in weapons, which is perfectly lawful otherwise. But  
-08:-39:-30 **8** in a post-9/11 world, that's not the case. Wouldn't he say  
-08:-39:-30 **9** that again, they'll find out what we're up to, what our real  
05:14:40 **10** purpose is? He doesn't say that. The statement clearly  
05:14:44 **11** implies that people may get the wrong idea; "the wrong idea"  
05:14:47 **12** being that this is training by terrorists.  
-08:-39:-30 **13** Finally, with regard to this date, Mr. Griffin  
05:14:55 **14** acknowledges that his purpose in training was not clear. So  
05:14:59 **15** you needn't rely solely on the statements by Wassim or Mr. Amawi  
-08:-39:-30 **16** from November 17. On cross-examination on April 24 of this  
-08:-39:-30 **17** year with Mr. Doughten, here was the exchange:  
05:15:12 **18** Question: Sure, you didn't want to blow your cover  
-08:-39:-30 **19** is what it comes down to?  
-08:-39:-30 **20** Mr. Griffin: No, it's not. As far as blowing  
-08:-39:-30 **21** cover, I wanted them to know what I was about and what I was  
05:15:24 **22** doing. Obviously it didn't come out this way on this night.  
05:15:27 **23** Mr. Doughten then asked: I guess what you're  
-08:-39:-30 **24** saying in retrospect, looking back at it, you could have been  
-08:-39:-30 **25** more clear?

-08:-39:-30 **1** Mr. Griffin says: Yes.

05:15:38 **2** You'll also remember the testimony of FBI Special

05:15:43 **3** Agent Coats who indicated vagueness is sometimes a part of

05:15:46 **4** undercover work. I mentioned that a little bit earlier just

-08:-39:-30 **5** before the lunch break. This is the first meeting, and also,

-08:-39:-30 **6** by the way, the first mention of Lebanon by Wassim in terms of

-08:-39:-30 **7** purpose. And he says during this November 17 meeting: I

-08:-39:-30 **8** believe one day I'll be back to my, you know, home country;

05:16:06 **9** we'll be learning other -- unintelligible comment there -- over

05:16:11 **10** there.

05:16:12 **11** Yes, that's in the Lebanese Army, for which he had

-08:-39:-30 **12** a duty to serve as a Lebanese national. He was not a U.S.

-08:-39:-30 **13** citizen. I'll talk more about Lebanon later.

05:16:24 **14** Also I wanted to mention, because it might have

-08:-39:-30 **15** been part of the government's argument before, Mr. Amawi makes

-08:-39:-30 **16** reference to a pact that somehow they're all in agreement. No

-08:-39:-30 **17** one acknowledges or adopts that language during this meeting.

-08:-39:-30 **18** Not Mr. Griffin, not Wassim.

-08:-39:-30 **19** In fact, what follow is a disagreement and a

05:16:45 **20** condemnation of particular acts, like Wassim condemning the

-08:-39:-30 **21** bombing of the Jordanian embassy is what follows during that

05:16:52 **22** conversation on November 17.

-08:-39:-30 **23** Let's move on to the next date. That would be

-08:-39:-30 **24** February 16, 2005. So the government made a lot of Mr.

05:17:04 **25** Mazloun's eagerness to train: He was perhaps, in some ways, the

-08:-39:-30 **1** most eager. What I'd suggest to you, it's now a full three  
05:17:13 **2** months since the meeting of November 17, 2004 to the next  
05:17:17 **3** meeting on February 16, 2005, which means in terms of training  
-08:-39:-30 **4** for jihad and going to do something violent overseas, it's  
-08:-39:-30 **5** simply not the case. There's been a big gap of about three  
05:17:31 **6** months here before his next contact with Mr. Griffin. Remember  
-08:-39:-30 **7** his purpose from November 17 heading into this. When November  
05:17:39 **8** 17 ends, he thinks they'll be going training, but that it would  
-08:-39:-30 **9** be lawfully. We're going back to the timeline. Again, I know  
05:17:50 **10** it's small. But we're here on February 16, and we were just  
-08:-39:-30 **11** here on November 17 before. So again, we're about three months  
05:18:01 **12** past.

05:18:03 **13** On February 16, this is the -- much has been made  
-08:-39:-30 **14** of this dinner meeting at Marwan El-Hindi's house. We  
05:18:11 **15** characterize it as a proposal dinner by Mr. Griffin. Mr.  
05:18:16 **16** Griffin comes loaded. He's wired with audio, wired for video.  
05:18:22 **17** He's got some training materials, some of which are antiquated  
05:18:26 **18** and are set out on the table, you might remember from the video,  
-08:-39:-30 **19** his testimony in this case. Trying to tighten down the  
05:18:33 **20** purpose. Wassim, however, left the November 17 meeting three  
05:18:37 **21** months before thinking they'd just got training. Whatever that  
-08:-39:-30 **22** includes, shooting weapons lawfully. But this was Mr.  
05:18:45 **23** Griffin's plan on this particular date.

05:18:47 **24** Again on cross-examination with Mr. Doughten on  
05:18:50 **25** April 24, he was asked: Was it your idea to get everybody

05:18:54 **1** together at Mr. El-Hindi's house, or was this something the FBI  
-08:-39:-30 **2** told you to try to do?

05:19:00 **3** And Mr. Griffin's answer was: I believe it was me  
-08:-39:-30 **4** that suggested it. It might have been guidance from the FBI.  
-08:-39:-30 **5** You'd have to ask them.

05:19:08 **6** So setting the stage for what occurs during this  
-08:-39:-30 **7** meeting.

05:19:13 **8** Wassim is picked up by Mr. Griffin after a long day  
05:19:16 **9** at work. That's his ride, to go wherever they're going, and  
-08:-39:-30 **10** he's a bit of a captive audience in the sense he's meeting Mr.  
-08:-39:-30 **11** Griffin for the second time after November 17, and Mr. Griffin's  
-08:-39:-30 **12** driving.

05:19:28 **13** Wassim expressed surprise at the fact there was no  
-08:-39:-30 **14** training that was going to go on. And now at this point I'd  
-08:-39:-30 **15** like to play you a short portion of that. This is 1D-28 from  
-08:-39:-30 **16** that date, February 16, 2005.

05:19:53 **17** (Audio is played.)

05:20:44 **18** MR. HELMICK: So again, the statement is: We're  
-08:-39:-30 **19** not going to train today? Because that was the discussion in  
05:20:50 **20** anticipation after the last meeting on November 17. This is  
-08:-39:-30 **21** three months later on the next contact, and he thinks they're  
-08:-39:-30 **22** just going to go train either in a field or the shooting range.  
-08:-39:-30 **23** That's what he thinks at that point.

05:21:16 **24** (Audio is played.)

-08:-39:-30 **25** MR. HELMICK: So as you can see from that

-08:-39:-30 **1** recording, Wassim thinks they're going to go train and is  
05:21:28 **2** surprised to find out they're not. And he doesn't really know  
-08:-39:-30 **3** what the purpose is in going to the other brother's house, but  
-08:-39:-30 **4** what seems to not be in dispute is that he didn't know  
05:21:40 **5** Mr. El-Hindi in this case before he shows up at his house. So  
-08:-39:-30 **6** that sets the stage, rather, for Wassim showing up at a  
05:21:48 **7** stranger's home, Mr. El-Hindi, for dinner and Mr. Griffin's  
-08:-39:-30 **8** proposal. He has no idea this was any type of planned proposal  
-08:-39:-30 **9** dinner when he gets there.  
05:21:59 **10** Now, Mr. Griffin makes a lot of radical statements,  
-08:-39:-30 **11** and during a great deal of that -- listen to 2/16 again if you  
05:22:07 **12** have any question about that or doubts -- Wassim is silent  
05:22:10 **13** during a great deal of that. Mr. Griffin entered this meeting,  
-08:-39:-30 **14** he said, to kind of feel out these men; to find out what they  
-08:-39:-30 **15** were thinking, what they wanted to do, who they were. And by  
-08:-39:-30 **16** the way, the reciprocal is true; they were trying to feel out  
05:22:24 **17** Mr. Griffin as well. Wassim is very deferential to Mr.  
05:22:28 **18** Griffin, even though we know that he had philosophical  
05:22:32 **19** differences with Mr. Griffin and others about what was and was  
05:22:35 **20** not proper and permissible, including the 9/11 acts, which  
-08:-39:-30 **21** Wassim condemned. He was deferential to Griffin. Why? Mr.  
-08:-39:-30 **22** Griffin had that specialized knowledge; he was older, and Wassim  
-08:-39:-30 **23** was from a culture where you respect your elders. Wassim was a  
-08:-39:-30 **24** relatively young man of 23 or 24. Mr. Griffin was  
05:22:58 **25** significantly older at that time than him. He was also an

05:23:02 **1** experienced veteran. He was a new convert to Islam, so anyone  
-08:-39:-30 **2** who might come into your church or your community, you're going  
-08:-39:-30 **3** to treat them with a certain amount of deference and patience,  
-08:-39:-30 **4** even if you don't agree with everything that comes out of their  
05:23:15 **5** mouth. And Wassim succumbed unquestionably on this date to  
-08:-39:-30 **6** some of the tenor of the talk and the machismo that we talked  
-08:-39:-30 **7** about before as a contextual element or design running through  
-08:-39:-30 **8** the case.

-08:-39:-30 **9** So here are some provocative comments that were  
-08:-39:-30 **10** made, the government made reference to previously. And we  
-08:-39:-30 **11** start here with Mr. Griffin in terms of talking about it. And  
05:23:40 **12** he starts out by asking Wassim during this part of the  
-08:-39:-30 **13** recording -- this is not the very beginning, but after Mr.  
-08:-39:-30 **14** Griffin's warmed them up a bit -- asking him: Is there some  
05:23:50 **15** specific area? And you were probably troubled, perhaps  
05:23:57 **16** understandably, by that reference: Mainly Iraq and the al-Sham  
05:24:02 **17** countries, is what he says.

-08:-39:-30 **18** What I'd ask you to do is step back and look for a  
05:24:10 **19** broader context here. He's in someone else's home. He's  
05:24:14 **20** deferential to Mr. Griffin. He comes back. He's hearing from  
-08:-39:-30 **21** Mr. Griffin some strong talk about what he has done previously  
05:24:21 **22** in the Army as a Special Forces officer, including killing some  
-08:-39:-30 **23** fellow Muslims. And he kind of confesses his sins -- falsely,  
-08:-39:-30 **24** of course -- but he kind of makes that confession, or that  
-08:-39:-30 **25** expression. So when he's asked by his pupil, by Wassim, where



05:24:40 **1** do you want to go, the response is interesting. All he had to  
-08:-39:-30 **2** say was Iraq. One simple word for someone who is not extremely  
-08:-39:-30 **3** articulate in English. He does. He states: In the, uh,  
05:24:54 **4** perhaps starting toward the al-Sham countries. Then says:  
05:24:59 **5** Mainly Iraq and the al-Sham countries.  
-08:-39:-30 **6** Mr. Griffin says: The al-Sham countries?  
05:25:05 **7** Wassim says -- this is significant. After 11/17,  
-08:-39:-30 **8** before you, you never -- you never know, somewhere over there.  
-08:-39:-30 **9** I suggest to you -- we'll talk about more of this later. If you  
-08:-39:-30 **10** were from Lebanon and lived through what he lived through for  
-08:-39:-30 **11** the first 19 years of his life -- remember, he's only been in  
-08:-39:-30 **12** the U.S. four or five years at that point -- this would make a  
-08:-39:-30 **13** lot of sense to you. Now, what's significant about the al-Sham  
05:25:30 **14** countries? This is from your glossary definition on the second  
-08:-39:-30 **15** page. You don't need to look it up or anything, you've got  
-08:-39:-30 **16** them, but there is the definition of the al-Sham countries.  
-08:-39:-30 **17** You can take a quick look if you don't remember, but notice  
05:25:43 **18** first what's missing: Iraq. And so is Afghanistan, by the  
05:25:49 **19** way. But if we take a look at this in terms of the countries  
-08:-39:-30 **20** that are listed, and we just go to a map of the region or the  
05:25:58 **21** area and take a look. Look on the right. You can see the  
05:26:03 **22** al-Sham countries are listed here, lifted from the definition on  
-08:-39:-30 **23** the previous page, just summarized for you. Here's Lebanon  
-08:-39:-30 **24** right here -- you might remember from testimony before -- at the  
-08:-39:-30 **25** far east end of the Mediterranean is right there. If we take a

-08:-39:-30 **1** look at the other countries, here's Syria, here's Jordan. And  
05:26:25 **2** then Lebanon, I've already marked here. Then down here to the  
05:26:29 **3** south, Israel and Palestine are down here. Take a look at that  
05:26:33 **4** map. What's significant about that? It includes his home  
-08:-39:-30 **5** country and all the countries that surround it are included in  
-08:-39:-30 **6** that definition. Not Iraq, not Afghanistan, but those  
-08:-39:-30 **7** countries surrounding it.  
05:26:47 **8** And remember back to the testimony from his mother.  
-08:-39:-30 **9** We're going to look at this in a little more detail in the  
05:26:54 **10** closing argument. Those countries, those regions that surround  
-08:-39:-30 **11** it were involved in or in conflict that affected Lebanon. And  
05:27:05 **12** we'll talk about that in a little more detail when we get back  
-08:-39:-30 **13** there.  
05:27:09 **14** That's why his comment about: In the, uh; then he  
-08:-39:-30 **15** says, mainly Iraq, which I suggest is simply a giveaway,  
-08:-39:-30 **16** throwaway to Griffin. Goes on to the al-Sham countries, then  
-08:-39:-30 **17** he makes that statement that you never -- you never know,  
05:27:29 **18** somewhere over there. This statement:  
05:27:33 **19** (Slide displayed.)  
05:27:35 **20** Go ahead and move on.  
-08:-39:-30 **21** More provocative comments that he makes during this  
-08:-39:-30 **22** period of time. In this one, Wassim asks him -- I believe this  
-08:-39:-30 **23** is during the drive in the car. Wassim asks: Well, what about  
05:27:52 **24** getting through, you getting through to Americans? What about  
05:27:58 **25** dressed like them? You'll notice he says down there towards

-08:-39:-30 **1** the bottom. This may also give you serious concern and pause  
05:28:05 **2** about what he's saying. But again, remember the setting.  
-08:-39:-30 **3** What he doesn't say is: Is there any way you can get, you know,  
05:28:16 **4** you can get... He doesn't say I. He doesn't say we. It's  
-08:-39:-30 **5** almost hypothetical, like "one." Can you, can one get through?  
-08:-39:-30 **6** You might say: Why does he want to know that?  
05:28:29 **7** Well, a couple of things to think about in terms of  
-08:-39:-30 **8** the context of this. The first is he's thinking about serving  
-08:-39:-30 **9** military duty for the Lebanese Army wearing a uniform, which  
05:28:39 **10** means asking an experienced soldier, American or otherwise,  
05:28:42 **11** who's in the Middle East, what about somebody infiltrating you  
-08:-39:-30 **12** if you're wearing a uniform? Is that doable? Is that possible?  
05:28:51 **13** It would be on Wassim's mind at the time he does this.  
05:28:56 **14** The other thing is this: Think about times in your  
-08:-39:-30 **15** life where you've met somebody, a funeral director, a deputy  
05:29:03 **16** coroner, or even some physicians, and you think of those  
05:29:08 **17** questions that you'd like to ask and, man, they may be  
-08:-39:-30 **18** distasteful. They may be horrible. But it occurs to you; you  
-08:-39:-30 **19** think about them. You think: I can't ask that in polite  
-08:-39:-30 **20** company. But of this guy, this radical man, Darren Griffin, I  
05:29:21 **21** can ask even unseemly, even disturbing questions like this.  
-08:-39:-30 **22** But what he doesn't say is that it's his intent to do it. He  
-08:-39:-30 **23** doesn't say "we," he doesn't say "I". He says "you". You  
-08:-39:-30 **24** can -- one can get through? It's almost a hypothetical. And  
-08:-39:-30 **25** then again asks about those type of trips when he goes through

05:29:45 **1** there.

-08:-39:-30 **2** And then Mr. Griffin talks about vulnerabilities

05:29:48 **3** and weak points. He then goes on, Mr. Griffin, to say: But we

05:29:56 **4** want to, we want to start a connection in Iraq, too, you know,

-08:-39:-30 **5** with our brothers in the Mujahidin and Brother Zargawi.

05:30:06 **6** Wassim says: That's tough.

05:30:08 **7** Again, from his view, this is a political

05:30:12 **8** hypothetical conversation; oh, that's tough, how would one do

-08:-39:-30 **9** that? And Mr. Griffin knows, yeah, it's really tough.

-08:-39:-30 **10** Acknowledges, yes, it's really tough.

-08:-39:-30 **11** Wassim's comments are indicative of kind of a

05:30:29 **12** feeling out process with Griffin. He's trying to determine what

-08:-39:-30 **13** they are about, what they want. And they're trying to

-08:-39:-30 **14** determine what he is all about. How radical is he, what he

05:30:38 **15** wants to do. And it shows how far Mr. Griffin tried to push

-08:-39:-30 **16** them in terms of some of the topics that were raised and

05:30:46 **17** discussed.

-08:-39:-30 **18** Wassim's surprise shows that many of these things

-08:-39:-30 **19** hadn't been contemplated, like his comment "that's tough," when

-08:-39:-30 **20** he does that in reaction to Mr. Griffin's controversial

05:30:57 **21** statement. And when Mr. Griffin hit a barrier of some kind,

05:31:00 **22** doesn't get the response he wants, doesn't get adaptation or

05:31:05 **23** enthusiasm, he moves on.

-08:-39:-30 **24** There are other discussions that go on. There's

-08:-39:-30 **25** more give-and-take between the parties throughout this time.

05:31:13 **1** Wassim asks Mr. Griffin, the one percent of the one  
05:31:16 **2** percenters, about using his business to get into Iraq. But if  
-08:-39:-30 **3** you look back fairly on 2/16 and keep an open mind and broad  
05:31:26 **4** perspective and remember November 17, Wassim's purpose here is a  
05:31:31 **5** feeling-out purpose. And there is no agreement or express  
-08:-39:-30 **6** agreement on purpose if you view the evidence in its entirety  
-08:-39:-30 **7** and in the proper context. There's testing of boundaries but  
-08:-39:-30 **8** no agreement.

-08:-39:-30 **9** We understand and concede that the government had  
05:31:48 **10** legitimate concern when they might have heard some of these  
-08:-39:-30 **11** statements. Again, if I'm FBI Agent Shannon Coats, and I hear  
-08:-39:-30 **12** some of these statements or comments, I'm going to be  
05:31:59 **13** suspicious; I'm going to be concerned. But the overall context  
-08:-39:-30 **14** is essential, which is what we're going to talk about here  
-08:-39:-30 **15** today. And the acts of Wassim during and following February 16  
05:32:09 **16** establish no clear criminal intent.

05:32:12 **17** On February 16, we're back here again. Again  
05:32:16 **18** there's a reference to Lebanon. Wassim says: Do you know  
-08:-39:-30 **19** anything about the Lebanese Army?

05:32:22 **20** Mr. Griffin says: I know.

-08:-39:-30 **21** Wassim says: Because I'm thinking about going back  
05:32:29 **22** and, uh, there they oblige us to, uh, serve for six months.

05:32:35 **23** Mr. El-Hindi has a small interjection: Oh, for --  
05:32:39 **24** doesn't seem to mean much.

05:32:40 **25** Mr. Griffin says: Yes, uh-huh. And, you know,

05:32:43 **1** get a lot of techniques. That would help. Arguably that  
-08:-39:-30 **2** would help him.

-08:-39:-30 **3** So in summary on February 16, was Mr. Griffin  
05:32:51 **4** successful in getting an agreement? No, certainly not from  
-08:-39:-30 **5** Wassim.

05:32:56 **6** There's vagueness, which is part of the purpose as  
-08:-39:-30 **7** a result of his prior work as a DEA agent. And there was  
05:33:02 **8** testimony of that from both him and from Special Agent Coats.

-08:-39:-30 **9** He's established himself as one percent of the one percent  
05:33:10 **10** during that time. And Mr. Griffin, he was feeling people out,  
-08:-39:-30 **11** by his own admission, his own acknowledgment from the stand.

05:33:18 **12** In his estimation, even if the government was expecting a cell,  
-08:-39:-30 **13** that wasn't what he was doing.

-08:-39:-30 **14** They're also feeling him out. How crazy is he?

-08:-39:-30 **15** How radical is he? Nothing solidified. There are

05:33:33 **16** hypotheticals and a feeling-out process. The purpose and

05:33:36 **17** objective were not formed or clear. There was no oath; there

05:33:39 **18** was no creed; there were no dues or regular meetings scheduled

-08:-39:-30 **19** or anything else as a result of this meeting. It just isn't.

-08:-39:-30 **20** There again, Wassim thought he was going to be going training to

-08:-39:-30 **21** the shooting range on this day. And however distasteful you

-08:-39:-30 **22** might find some of the comments and exchanges, it's still the

05:33:59 **23** feeling-out process.

05:34:00 **24** Now, Mr. Sofer asked why not walk or run away from

-08:-39:-30 **25** this talk, this talk from Darren Griffin, this crazy kind of

-08:-39:-30 **1** talk. Remember, the dinner wasn't planned, not by Wassim, not  
-08:-39:-30 **2** by his participation. He didn't drive; he was picked up by Mr.  
-08:-39:-30 **3** Griffin and brought there. He was a guest at a stranger's home  
05:34:21 **4** during the time that he was there. There was great deference  
-08:-39:-30 **5** to Mr. Griffin, the one percent of the one percenter, and he was  
-08:-39:-30 **6** a convert who you're going to give greater leeway. And Griffin  
-08:-39:-30 **7** remembered, not insignificantly, these men and how they might  
05:34:36 **8** have felt, was confessing his sins. Falsely, but,  
-08:-39:-30 **9** nevertheless, making a statement that at the time appeared  
-08:-39:-30 **10** sincere. They were also politically sympathetic to some of his  
05:34:47 **11** viewpoints, even if they didn't agree with everything he said or  
05:34:50 **12** wanted to do.  
05:34:53 **13** Let me just go through this one more time for us.  
05:34:57 **14** I missed one point at the bottom.  
-08:-39:-30 **15** The problem with repeating slides.  
05:35:11 **16** It's lawful is the lesson. You are going to read  
-08:-39:-30 **17** jury instructions. We'll visit that briefly at the end of the  
05:35:19 **18** presentation.  
-08:-39:-30 **19** By the way, we're at least halfway through, if  
05:35:22 **20** that's any solace to anybody.  
-08:-39:-30 **21** Back to our diagram again and our time chart.  
-08:-39:-30 **22** Because the next date -- we were at 2/16 here. The next date is  
05:35:33 **23** not until April 13. So again, we're about two months farther  
-08:-39:-30 **24** out before there's any direct contact between Darren Griffin and  
05:35:40 **25** Wassim.

-08:-39:-30 **1** On April 13, again, the government says Wassim is  
-08:-39:-30 **2** eager. Well, it's been a couple months, and they still haven't  
-08:-39:-30 **3** gone to the shooting range from the initial meeting on November  
-08:-39:-30 **4** 17 of '04. It's been two months since the dinner proposal  
-08:-39:-30 **5** meeting. Again, Wassim thinks he's going training on April 13.  
-08:-39:-30 **6** And he's really not happy about not going to the shooting range.  
-08:-39:-30 **7** That's his goal for lawful purposes and for receiving  
-08:-39:-30 **8** self-defense.

-08:-39:-30 **9** Now, if you would, we'll play part of 1D-47.

-08:-39:-30 **10** Again, this is the April 13, 2005. This is at the outset.

05:36:19 **11** It's at the beginning.

05:36:45 **12** (Audio is played.)

05:37:30 **13** MR. HELMICK: That's it for that clip. Again,

-08:-39:-30 **14** what's significant there is he just wants to go train in the

05:37:40 **15** shooting range. He says: This is such a pain; I'll just do it

-08:-39:-30 **16** another day, or words to that effect, is what he says during the

-08:-39:-30 **17** time he's there. That's his goal. That's what he's thinking.

05:37:54 **18** Also there's also an offer that's made for food. He's already

-08:-39:-30 **19** eaten. Again on 4/13 he thinks: Let's just go to the shooting

-08:-39:-30 **20** range and go train. He ends up at Mr. Griffin's apartment

-08:-39:-30 **21** with, I assume, a government-paid-for white board that's already

-08:-39:-30 **22** set up there for a presentation. Nothing he signed on for.

-08:-39:-30 **23** Since November 17 he just wanted to go train to

05:38:19 **24** learn how to handle and shoot a weapon. Again, Mr. Griffin has

-08:-39:-30 **25** audio and video ready. What happens? Despite scary stills or



05:38:30 **1** images from it, what you really see on April 13 at his apartment  
-08:-39:-30 **2** is that Wassim learns proper handgun safety and sighting.  
05:38:38 **3** That's what is really conveyed. If you just dissect what  
05:38:42 **4** happened, and you look cleanly at the record, that's what  
-08:-39:-30 **5** happened on April 13. There is some -- Griffin is placating  
-08:-39:-30 **6** Wassim by teaching him that or showing him those things. And  
05:38:54 **7** despite the video played, there's nothing to be afraid of by  
05:38:58 **8** what you saw on April 13.

05:39:01 **9** At that time Mr. Griffin suggests another tactic  
-08:-39:-30 **10** that they could do in the future; that's paint balling. Again,  
-08:-39:-30 **11** a lawful activity despite the government's insistence. This is  
-08:-39:-30 **12** not Mr. Amawi. Remember the video clip was played showing the  
-08:-39:-30 **13** scene how to hold the weapon and sight the weapon. The  
-08:-39:-30 **14** government's argument is: Come on, this is clearly Mr. Amawi is  
05:39:27 **15** practicing for the future before so when he forms his own cell,  
-08:-39:-30 **16** he can help other people. A fair review of April 13 is Wassim  
-08:-39:-30 **17** cannot understand much of what Mr. Griffin is saying in English,  
-08:-39:-30 **18** and Mr. Amawi repeats it for him in Arabic for his benefit.

-08:-39:-30 **19** And if you go back and review April 13 and review  
-08:-39:-30 **20** that video, that is what is happening. There's no discussion  
-08:-39:-30 **21** by Mr. Griffin telling Mr. Amawi, okay, now you go ahead and  
-08:-39:-30 **22** practice for the future and show him. He simply repeats what  
05:40:04 **23** Wassim, who arguably has the poorest English skills, he simply  
05:40:09 **24** repeats what Mr. Griffin just told him. Mr. Amawi repeats it  
-08:-39:-30 **25** for Mr. Griffin.

05:40:15 **1** All right. Astrolite. I hate to even spend the  
-08:-39:-30 **2** time, but we need to talk about it because Mr. Mazloun was  
-08:-39:-30 **3** associated with one meeting where it was discussed between Mr.  
-08:-39:-30 **4** Griffin and Mr. Amawi. The first mention was between Mr. Amawi  
05:40:30 **5** and Mr. Griffin only days before. Neither one of them, neither  
-08:-39:-30 **6** Mr. Griffin nor Mr. Amawi, appeared particularly clear on the  
-08:-39:-30 **7** concept. There was some discussion on it on April 13 when  
05:40:42 **8** Wassim is present, but no substance is discussed about it.  
05:40:45 **9** It's not even clear what it is or where they're going. There's  
-08:-39:-30 **10** no participation by Mr. Mazloun or evidence that he knows what  
-08:-39:-30 **11** it is, that he even knows what the word means. And he doesn't  
05:40:56 **12** say anything with regard to that substance, that product.  
05:41:01 **13** In fact, Mr. Griffin stated during his testimony  
-08:-39:-30 **14** here that he believed that Mr. Amawi had not mentioned Astrolite  
-08:-39:-30 **15** to Wassim prior to the discussion that Wassim overhears on April  
05:41:14 **16** 13. Mr. Griffin testified to that here in court.  
05:41:18 **17** Wassim is satisfied with that visit, even though he  
-08:-39:-30 **18** was upset at first, with proper gun handling and safety. Not  
05:41:27 **19** coincidentally, ladies and gentlemen, there's another mention on  
05:41:31 **20** 4/13 of Lebanon by Wassim. That's why he's in a hurry to get  
05:41:36 **21** to the place and get going. It's not great English, but that's  
-08:-39:-30 **22** what he's referring to at the time he makes that statement.  
-08:-39:-30 **23** "Try and speed it up because I might leave back home this  
05:41:45 **24** summer." That's Lebanon. Not for any evil purpose; it's for  
-08:-39:-30 **25** a trip back with his family, possibly to meet with another

-08:-39:-30 **1** family, and possibly to meet a young woman. But he's leaving  
-08:-39:-30 **2** his options open, including joining the Lebanese Army; because,  
-08:-39:-30 **3** after all, he has that requirement unless he can continue  
-08:-39:-30 **4** deferring. Again, a lawful and logical purpose.  
-08:-39:-30 **5** Let's move on to the next meeting. We just  
05:42:10 **6** finished April 13. The next one is April 20. Finally, this is  
-08:-39:-30 **7** the first time by Wassim at the shooting range, April 20, 2005.  
05:42:21 **8** Again, first of two trips within nine or ten days to Cleland's.  
-08:-39:-30 **9** They used their Israeli names, real I.D., and don't wear any  
05:42:35 **10** disguises. They show up as they are, who they are. They use  
-08:-39:-30 **11** their driver's license, and they sign in under their names.  
-08:-39:-30 **12** The documents are in evidence in the case. It's right next to  
-08:-39:-30 **13** the state highway patrol. For those of you who have been there  
05:42:48 **14** or out Airport Highway or by to Loma Linda's, the state highway  
-08:-39:-30 **15** patrol is right next door.  
05:42:55 **16** Nothing happens but target shooting on this day.  
-08:-39:-30 **17** Nothing. They go and they shoot targets. There's handling  
-08:-39:-30 **18** and safety at the shooting range during that time. There's no  
05:43:04 **19** talk of jihad, of any violence or world like jihad or even  
05:43:09 **20** politics before, during, or after this meeting on April 20.  
05:43:14 **21** This was Mr. Amawi, Wassim, and Mr. Griffin during this first  
05:43:20 **22** trip.  
05:43:21 **23** Again, Lebanon. He says: Because, because, you  
05:43:27 **24** know, we're leaving. I'm, I'm -- I might be leaving next month.  
05:43:33 **25** Again, with his family.

-08:-39:-30 **1** Then he says: Yeah, so, so, if Mohammad is busy,  
-08:-39:-30 **2** the other days can just do it me and you. What's he saying to  
-08:-39:-30 **3** Mr. Griffin? Maybe we could just go if Mohammad is busy and he  
-08:-39:-30 **4** can't come out. Then Wassim asks, Can I come by myself to the  
-08:-39:-30 **5** range? Now, does that sound like cell behavior, cell-like  
05:43:59 **6** behavior? He says: Can I come out by myself? Interestingly,  
05:44:03 **7** Mr. Griffin tells him, No, you should bring another brother with  
05:44:06 **8** you to critique you. Why? Mr. Amawi just learned how to  
-08:-39:-30 **9** shoot, so why is he suggesting to Wassim you should bring  
05:44:13 **10** another brother when he says I want to come by myself? Mr.  
05:44:18 **11** Griffin says we shouldn't talk at all. And he suggests putting  
-08:-39:-30 **12** things up on the board again. This is the white board. Again,  
-08:-39:-30 **13** secrecy versus discretion.  
-08:-39:-30 **14** Mr. Griffin seems to believe that they want to  
-08:-39:-30 **15** operate in secret because they're planning some Violent jihad.  
05:44:33 **16** And Wassim is there with this real I.D. and no disguise and  
-08:-39:-30 **17** signing in under his real name because he wants to learn how to  
-08:-39:-30 **18** shoot and self-defense. His concern was how it might look to  
-08:-39:-30 **19** outsiders.  
-08:-39:-30 **20** Wassim asked him a second time on this date, on  
-08:-39:-30 **21** April 20, about coming alone. And Mr. Griffin says, yes --  
05:44:54 **22** this time he says: You should bring your brother, Bilal.  
05:44:58 **23** Let's fast forward then to April 29. This is  
05:45:02 **24** Wassim. This is nine days later. And this is Wassim's second  
-08:-39:-30 **25** and final trip to Cleland's. Two trips within nine days. He

05:45:11 **1** brings his brother, Bilal Mazloun. There is discussion  
-08:-39:-30 **2** regarding Amawi's brother and not telling him, that Bilal  
-08:-39:-30 **3** Mazloun should not have told him. But again, a fair reading in  
-08:-39:-30 **4** the whole context of the evidence, if you step back, is this is  
05:45:26 **5** related to discretion, not secrecy. It's another uneventful  
-08:-39:-30 **6** shooting session at the range.  
05:45:33 **7** Okay. So we're back here on the timeline, and  
05:45:37 **8** we're up to April 29. We were down here on April 20 in terms of  
05:45:43 **9** the range.  
05:45:44 **10** Okay. Wassim goes a second time only nine days  
-08:-39:-30 **11** after the first visit. How concerned was he about secrecy, ask  
05:45:54 **12** yourself? Again, he uses his own name, own I.D., no disguise.  
05:45:59 **13** He asks if he can go alone. He brings his brother. This is  
05:46:06 **14** from April 20, at Mr. Griffin's suggestion. And remember,  
-08:-39:-30 **15** you've heard testimony during our case in chief that he told  
05:46:13 **16** family members and friends of these trips. And you might  
05:46:17 **17** remember, Hussein Smidi is the nice young man who is the  
-08:-39:-30 **18** manager of Rite Aid in Swanton. Anwar Rabah flew in from  
-08:-39:-30 **19** Miami, Florida; he was the high school teacher friend of  
05:46:33 **20** Wassim's. Then Wassim's aunt, Nailam Elkhechen, came in and  
-08:-39:-30 **21** testified. Now, despite what the government may argue, they  
05:46:42 **22** didn't come in and say that he told them some type of cover, he  
-08:-39:-30 **23** was going to the shooting range for fun. First of all, there  
-08:-39:-30 **24** was no evidence that he went to the shooting range. Nobody  
05:46:55 **25** said to him: Oh, I heard you were out at Cleland's; what were

-08:-39:-30 **1** you doing out there? He volunteered this information to two  
05:47:02 **2** friends, one of whom doesn't even live in the area, and to his  
-08:-39:-30 **3** aunt as well. He was proud. He took out the target from his  
05:47:11 **4** pocket when he was in the car with her, you might remember, and  
-08:-39:-30 **5** he holds it and shows it to her. And the stated purpose he  
-08:-39:-30 **6** told her: It was for fun. He did say that. But you remember  
05:47:22 **7** she said then, repeated on redirect, that the major purpose was  
-08:-39:-30 **8** self-defense, was protecting self and protecting family. That  
-08:-39:-30 **9** was her testimony, and that that was the primary reason, not an  
05:47:33 **10** equal reason or a secondary reason for fun. That was the  
-08:-39:-30 **11** primary reason.

-08:-39:-30 **12** The government may come back and argue: They  
05:47:40 **13** suggested this in their first argument. This was clearly just  
-08:-39:-30 **14** a matter of putting up a smoke screen so that these people knew.  
05:47:47 **15** Why? They didn't know. They were surprised when they told  
-08:-39:-30 **16** them. They didn't know. So why tell them? And, by the way,  
-08:-39:-30 **17** Mr. Griffin's cover story for what they were doing was handing  
-08:-39:-30 **18** out business cards to them for the security company. So why  
-08:-39:-30 **19** not tell them, Oh, I'm training for security, VIP Security;  
-08:-39:-30 **20** here's the card from the guy who's helping me. Instead he told  
-08:-39:-30 **21** his aunt he was going out, it was for fun, and mainly it was for  
05:48:15 **22** defense of self and defense of family. That's what he said.  
05:48:19 **23** There's no Jihad planning done there. He's keeping his options  
-08:-39:-30 **24** open in terms of the trip to Lebanon.

-08:-39:-30 **25** Now we're coming up, we're still on April 29. The

05:48:32 **1** second trip to the shooting range. We're in the back seat of  
-08:-39:-30 **2** Mr. Griffin's car. All right. Wassim and Bilal in the back  
-08:-39:-30 **3** seat. His brother Bilal. I know it gets a little confusing  
-08:-39:-30 **4** because it's Mr. Griffin's Arabic name. But Bilal Mazloun and  
-08:-39:-30 **5** Wassim Mazloun are in the back seat. Mr. Amawi is in the front  
-08:-39:-30 **6** seat with Mr. Griffin, and there are simultaneous conversations  
-08:-39:-30 **7** going on. But Wassim and Bilal, his brother, are in the back  
05:48:56 **8** seat talking in Arabic. In the privacy of the back seat in  
-08:-39:-30 **9** Arabic, which Mr. Griffin doesn't understand, Wassim tells his  
05:49:06 **10** brother the purpose of the training that they're undertaking  
-08:-39:-30 **11** when they're at the shooting range on April 29.  
05:49:14 **12** And so I think the last piece we're going to play  
-08:-39:-30 **13** for you today is from April 29, 2005. It's 1D-57. Again,  
-08:-39:-30 **14** we're in the back seat of Mr. Griffin's car.  
05:49:31 **15** (Video is played.)  
05:50:49 **16** MR. HELMICK: Again, the statement here of  
05:50:51 **17** significance is he's talking to Bilal. There's a simultaneous  
05:50:54 **18** conversation going on between Mr. Amawi and Mr. Griffin in the  
05:50:59 **19** front seat. Wassim is talking to his own brother in the back  
-08:-39:-30 **20** seat. What he says is, We're just here to train. We're just  
-08:-39:-30 **21** here to learn. Then he says -- you can see it; it's still on  
-08:-39:-30 **22** the screen. Again, the translation is the real evidence  
05:51:11 **23** because it's in Arabic. It's not what you hear, like all the  
-08:-39:-30 **24** other recordings that are in English, but the translation is:  
-08:-39:-30 **25** If we are ever back in the home country one day, and something

-08:-39:-30 **1** happens there maybe, but over there -- over here there is  
-08:-39:-30 **2** nothing. We are not this kind of people who would do something  
-08:-39:-30 **3** here, but over there you don't know. You never know, which is  
-08:-39:-30 **4** the whole point of life in the Middle East, especially how and  
-08:-39:-30 **5** where they grew up, and it's why their life in the Middle East  
-08:-39:-30 **6** is relevant.

05:51:49 **7** (Video is played.)

05:52:32 **8** MR. HELMICK: So again, it's Mr. Griffin who  
-08:-39:-30 **9** injects the concept of jihad in the conversation, not  
-08:-39:-30 **10** understanding what Mr. Mazloun just told his brother Bilal in  
-08:-39:-30 **11** the back seat because it's not his native language. That is,  
-08:-39:-30 **12** Darren Griffin doesn't understand what's being said. This is  
05:52:55 **13** consistent in terms of Wassim, with the intent he expressed back  
-08:-39:-30 **14** on November 17, several months before when they met for the  
-08:-39:-30 **15** first time.

05:53:06 **16** May 1, we'll jump forward to. They're worth  
05:53:10 **17** mentioning only because this is the date of the conversation --  
-08:-39:-30 **18** and Mr. Griffin testified to this as well -- between Mr. Amawi  
-08:-39:-30 **19** and Mr. Griffin discussing Mr. Amawi's fears that he was being  
05:53:23 **20** watched. You probably remember that. This is a precursor to  
-08:-39:-30 **21** a May 2 conversation, the next day, between Mr. Griffin and  
-08:-39:-30 **22** Wassim. And whether it's honest or paranoia expressed by Mr.  
-08:-39:-30 **23** Amawi, he expresses that to Mr. Griffin. And then Mr. Griffin  
05:53:44 **24** calls Wassim to alert him of Mr. Amawi's concern. So we're  
-08:-39:-30 **25** here, May 2. Last trip to the shooting range was here, on April



05:53:54 **1** 29.

05:53:57 **2** On May 2, there's brief discussion -- this was not

-08:-39:-30 **3** played, but Mr. Sofer asked Mr. Griffin about it on direct

-08:-39:-30 **4** examination. It was just a few questions, maybe three

05:54:10 **5** questions or so. And here's the gist of it. He indicates --

-08:-39:-30 **6** Mr. Griffin indicates that he calls Wassim and tells him Mr.

-08:-39:-30 **7** Amawi's fears of being followed. Wassim says he shouldn't

05:54:22 **8** worry about anything because we're not doing anything wrong or

05:54:26 **9** illegal.

05:54:27 **10** He also that day purchases a paintball gun, which

-08:-39:-30 **11** is, by the way, never used. It's still in its original

05:54:36 **12** packaging, and you have it in evidence in the case. Even though

05:54:39 **13** it was bought on May 2, he never went paintballing, never did

05:54:43 **14** anything. It was mothballed in the garage. It was found in

-08:-39:-30 **15** the garage in February of 2006 when the charges were brought in

-08:-39:-30 **16** the case. It's still in the original packaging. Check it

-08:-39:-30 **17** out. The Government's admitted it as an exhibit.

05:54:56 **18** Fast forward to May 18, 2005. Again, this doesn't

-08:-39:-30 **19** directly involve Mr. Mazloun, and yet he's mentioned. Amawi

05:55:06 **20** and Griffin are talking. And this is text from 1D-66 on May 18,

05:55:12 **21** 2005. Mr. Amawi says: Yeah, but here, Brother, I don't know

05:55:18 **22** about Wassim; me and you, we need to continue.

-08:-39:-30 **23** Mr. Griffin says: Yeah, I know. I was waiting.

-08:-39:-30 **24** Mr. Amawi says: I want to -- we need to continue.

05:55:29 **25** And that was from 1D-66 on May 18.

-08:-39:-30 **1** Another passage from May 18 or exchange, and I'd  
05:55:38 **2** let you read this yourselves on the screen, please, if you  
-08:-39:-30 **3** would.  
05:56:10 **4** (Text displayed.)  
05:56:12 **5** By this point I suggest to you Mr. Mazloun, he's no  
-08:-39:-30 **6** longer interested. He got some training in handgun handling on  
-08:-39:-30 **7** April 13 at Mr. Griffin's apartment. He's been to the shooting  
-08:-39:-30 **8** range twice. It went fine. He's no longer interested at this  
-08:-39:-30 **9** point, as was reflected during that conversation.  
05:56:33 **10** Fast forward to September 29. We're now five  
-08:-39:-30 **11** months past the last shooting range trip on April 29, 2005.  
05:56:44 **12** The government has characterized this as a meeting between  
05:56:49 **13** Wassim and Mr. Griffin. And I take issue with that only this  
-08:-39:-30 **14** far: A meeting implies two people agreed to get together at a  
-08:-39:-30 **15** particular time and particular place. That's not what happened  
-08:-39:-30 **16** here on September 29. What actually happened here is that  
05:57:09 **17** Wassim was going on with his life as he had before. He was  
-08:-39:-30 **18** working to support himself and his family. He was going to  
-08:-39:-30 **19** college at the University of Toledo in the College of  
-08:-39:-30 **20** Engineering. Mr. Griffin shows up unannounced and uninvited.  
-08:-39:-30 **21** He drops by the car lot where Wassim is working at that time.  
-08:-39:-30 **22** It's Mr. Griffin that tells Wassim that Mr. Amawi wants to start  
-08:-39:-30 **23** a car business with Wassim. Wassim says that he hadn't heard  
05:57:39 **24** that. And the government has acknowledged that Mr. Amawi had  
05:57:45 **25** some legitimate business ventures, including perhaps cars.

05:57:49 **1** Mr. Griffin said he was moving to Jordan. That  
05:57:55 **2** means Wassim would be losing his trainer and alleged cell  
05:57:59 **3** leader, right? Mr. Griffin's moving to Jordan if he's leaving,  
-08:-39:-30 **4** and Wassim is not. But there's no evidence in the record of a  
-08:-39:-30 **5** single complaint voiced by Wassim about his plans to go to  
05:58:10 **6** Jordan.  
05:58:13 **7** He's losing his trainer, but he's not making any  
-08:-39:-30 **8** complaint.  
05:58:19 **9** The last contact. Fast forward four months now  
-08:-39:-30 **10** from September 29 to January 30. By the way, there's one  
-08:-39:-30 **11** potential contact in here that's alleged in here, and it's not  
-08:-39:-30 **12** marked on this, and there's a reason for that. There was  
-08:-39:-30 **13** testimony -- I'll just touch briefly on this -- that while Mr.  
05:58:41 **14** Griffin was in Jordan the first time from August 22, I believe,  
-08:-39:-30 **15** to September 8, 2005, that on his cell phone that he had there  
-08:-39:-30 **16** that there was an indication that Wassim Mazloun was calling  
-08:-39:-30 **17** him. And I suggest to you that he's either mistaken or he's  
-08:-39:-30 **18** not being completely candid. I only say this for this reason.  
-08:-39:-30 **19** There's no message left. Mr. Griffin acknowledges that. He  
05:59:10 **20** didn't return the call. There's no evidence that he reported  
-08:-39:-30 **21** it to his trainer that he received that phone call. And  
-08:-39:-30 **22** there's no indication or evidence that during the September 29  
-08:-39:-30 **23** meeting that there's any my mention, Oh, I tried calling you  
05:59:26 **24** when I was over in Jordan. What's up? There's none of that.  
-08:-39:-30 **25** So here we are now on the last date of contact on

-08:-39:-30 **1** January 30 of 2006. Again, Mr. Griffin appears unannounced and  
-08:-39:-30 **2** uninvited at the car lot. It's been four months since the last  
05:59:43 **3** visit on September 29, and Griffin greets him early on by saying  
-08:-39:-30 **4** to him: You are a busy man. Maybe tough to get a hold of,  
05:59:54 **5** tough to get in contact with. Mr. Griffin is, again, not aware  
-08:-39:-30 **6** of what Wassim Mazloun is doing in his life, and Wassim Mazloun  
06:00:01 **7** doesn't know what Mr. Griffin's doing either. Wassim doesn't  
-08:-39:-30 **8** know Griffin was still in the U.S.A. He thought he was in  
-08:-39:-30 **9** Jordan.

-08:-39:-30 **10** On the closing exchange, the last, arguably,  
06:00:14 **11** relevant thing recorded in the last conversation between the two  
-08:-39:-30 **12** of them is this: Wassim says: So are you guys have any  
-08:-39:-30 **13** connection with the Mujahidin in Iraq? Because he's learned  
-08:-39:-30 **14** that he's taken a trip over there to Jordan.

06:00:27 **15** Yeah, he's, uh, he's going to tell us about it when  
06:00:31 **16** he gets here.

06:00:32 **17** Then there's an unintelligible.

-08:-39:-30 **18** Brother that's from Iraq to, I guess, Syria to, uh,  
-08:-39:-30 **19** Jordan, and he's supporting, I guess, the brothers there, so --  
06:00:44 **20** but I have to get some laptops for the brothers there because  
-08:-39:-30 **21** that's how they're communicating.

-08:-39:-30 **22** Wassim asks: The brothers in Iraq?

-08:-39:-30 **23** Then I'll let you read this next sentence.

06:01:30 **24** It ends, ironically, with this exchange with Mr.

-08:-39:-30 **25** Griffin asking Mr. Mazloun: Did you have -- talk to any

06:01:38 **1** brothers over in Iraq or anything?

-08:-39:-30 **2** Mr. Mazloun says: No.

06:01:41 **3** He hasn't been doing anything except working,

06:01:44 **4** supporting himself and his family, and going to school.

-08:-39:-30 **5** Now, there are at least three references the

06:01:49 **6** government has indicated to you of mujahidin comments by Wassim.

06:01:53 **7** But remember, he's a mere spectator to any contact between

06:01:58 **8** Griffin and others over there. He hasn't gone over. The only

06:02:01 **9** reason he made any plans, the plans he did have were to go to

-08:-39:-30 **10** Lebanon. He never went. All Wassim knows of Griffin is he's

-08:-39:-30 **11** the radical convert, and he talks about things in Iraq and the

-08:-39:-30 **12** mujahidin. He may even be sympathetic to his views and feel,

06:02:17 **13** Mr. Griffin, as they're expressed. But these are all he knows

-08:-39:-30 **14** about him. And he knows little else other than his military

06:02:24 **15** background.

-08:-39:-30 **16** So after not seeing him for months at a time, he

06:02:27 **17** asks him almost a rhetorical question, a question that will lead

06:02:31 **18** nowhere, because when he's asked by Mr. Griffin, and Wassim

-08:-39:-30 **19** says: No, that's it. That's the last comment that's of

-08:-39:-30 **20** relevance to this case. And Wassim says no when that's asked.

06:02:48 **21** Now, we talked a lot about the evidence. By the

-08:-39:-30 **22** way, we're almost done. We're closing in, folks. I really

-08:-39:-30 **23** appreciate your patience.

-08:-39:-30 **24** There's only one time he requested a disk or CD

06:03:00 **25** despite all the things you've heard about computer evidence or

-08:-39:-30 **1** what you've seen; that was a scholarly debate on a video that  
-08:-39:-30 **2** was being watched. He could have traveled to the Middle East  
-08:-39:-30 **3** at any time to perform some type of violent jihad. There's no  
-08:-39:-30 **4** evidence he had any restriction on travel. And he's a Lebanese  
06:03:21 **5** national, if he wants to return. There's no outward  
06:03:24 **6** expressions of agreement on his part to do so. And the only  
06:03:27 **7** physical evidence for him is a paintball gun that I mentioned is  
-08:-39:-30 **8** still sealed in the package. There's also no recruitment.  
-08:-39:-30 **9** Even Bilal, his brother, it was for purposes of defense, as  
06:03:42 **10** stated between them in Arabic in the back seat of the car on  
-08:-39:-30 **11** April 29. Just listen to it.

06:03:49 **12** Let's talk about Lebanon now for a moment just to  
-08:-39:-30 **13** shift gears because it's been weaved through this entire thing.  
-08:-39:-30 **14** As you know, he's made references to it. Wassim's only  
-08:-39:-30 **15** agreement was to train; that's all. The purpose of the  
-08:-39:-30 **16** training was for preparation for defense of self and family.  
06:04:05 **17** And the record is replete with that, from November 17 through  
06:04:10 **18** April of 2005, and that purpose was logical and understandable.  
06:04:19 **19** And we're not going to spend a great deal of time  
-08:-39:-30 **20** on Lebanon, because I know you've heard the evidence, but if you  
-08:-39:-30 **21** take a look, there's ample evidence of his intent to return.  
-08:-39:-30 **22** He was a non-U.S. citizen. There was possible military  
06:04:33 **23** services in issue. We also know from testimony from his mother  
-08:-39:-30 **24** that Lebanon is a legitimate government, not an enemy to the  
-08:-39:-30 **25** U.S. It's friendly to the U.S. You know that from her

-08:-39:-30 **1** testimony. You don't have to rely on her alone.

-08:-39:-30 **2** There's actually other evidence in the case you can

-08:-39:-30 **3** rely on besides that. The government's own expert witness

06:04:52 **4** testified. Kelly Mount, remember her; she was a ballistics

-08:-39:-30 **5** expert. She was one of two that testified. She was the first

-08:-39:-30 **6** that testified. Among her qualifications and her talking about

-08:-39:-30 **7** being an expert is she was invited by Lebanon to come and assist

-08:-39:-30 **8** with a car bombing over in Lebanon. That's significant for two

-08:-39:-30 **9** reasons: That wasn't the purpose of her testimony directly in

-08:-39:-30 **10** terms of why the government called her here, which was to talk

06:05:17 **11** about other things in the case or issues in the case. But what

-08:-39:-30 **12** can you take away from that? It describes the type of tactics

-08:-39:-30 **13** used in Lebanon, car bombings, not like here where primarily we

-08:-39:-30 **14** might be concerned about firearms defense or asserting our own

-08:-39:-30 **15** rights under the Second Amendment, defending our family.

-08:-39:-30 **16** The second thing of importance is it affirms the

06:05:42 **17** relationship between the United States and Lebanon, how she

-08:-39:-30 **18** testified at the request of the host government, that's Lebanon.

-08:-39:-30 **19** Would the FBI, would the U.S. really send somebody abroad to

06:05:53 **20** help a government that wasn't friendly? By the way, it's also

-08:-39:-30 **21** mentioned in her curriculum vitae, which is Government's Exhibit

06:06:01 **22** 174, it's listed as part of her experience, that trip to Lebanon

-08:-39:-30 **23** for that reason. We know that life in Lebanon, from 1981 when

-08:-39:-30 **24** he was born to 2000 when he emigrates, that things were war

06:06:13 **25** torn.

-08:-39:-30 **1** If you look just briefly at this timeline, this  
-08:-39:-30 **2** is -- the exact details of this are unimportant, but they're  
-08:-39:-30 **3** supported by the testimony. You can see that Wassim is born  
06:06:22 **4** here in 1981. That there is civil war and incursion throughout  
-08:-39:-30 **5** the time that he's there until 2000 when -- in April of 2000  
-08:-39:-30 **6** when he emigrates with his family to the United States.  
06:06:39 **7** Significantly there are skirmishes that include armed people  
-08:-39:-30 **8** with IEDs and automatic weapons fire. And you'll remember he  
-08:-39:-30 **9** was beaten down by Syrian soldiers who invaded his house. So  
-08:-39:-30 **10** what would you want to do if you weren't a U.S. citizen, and you  
06:06:56 **11** might be returning to Lebanon? Wouldn't you want to know how to  
-08:-39:-30 **12** defend yourself?

06:07:03 **13** There are major events from all sides and all  
06:07:06 **14** borders. No one's to blame. It's just that part of the world.  
-08:-39:-30 **15** Lebanon, from 1981 to 2000, was war torn. And it's not just  
06:07:17 **16** involving small weapons fire; there is IEDs -- there was  
-08:-39:-30 **17** testimony about that -- shoulder launch missiles, automatic  
06:07:23 **18** weapons. It was all a part. Which means if he expressed an  
-08:-39:-30 **19** interest in bombs or IEDs, it's because you might have to deal  
-08:-39:-30 **20** with it if you're in Lebanon or a citizen of the Middle East.  
-08:-39:-30 **21** It was real life there.

-08:-39:-30 **22** He was the man of the house, essentially, after his  
06:07:39 **23** father abandoned them. He was 10 or 11 when his father left and  
06:07:43 **24** went to Venezuela. He was the man of the house. He was the  
-08:-39:-30 **25** eldest man there until he was 18 years old and emigrated; he was



-08:-39:-30 **1** there. You're also aware of the deferment taken by his mother  
-08:-39:-30 **2** in terms of the military service requirement. It was still a  
06:07:59 **3** possibility to him that he might go there. When he got here to  
-08:-39:-30 **4** the U.S. -- this is also inconsistent with somebody who wants to  
06:08:07 **5** go commit violent Jihad -- he started working ten days after his  
06:08:10 **6** arrival here at the Outback Steak House. He earns his GED.  
-08:-39:-30 **7** He enrolled at the U.T. College of Engineering in computer  
-08:-39:-30 **8** science. He was a fifth year senior during that last visit  
-08:-39:-30 **9** with Darren Griffin in January, 2006. He was almost done with  
-08:-39:-30 **10** his engineering degree. His life continued, a productive life,  
-08:-39:-30 **11** a lawful life during those 14 months of contact with Mr.  
-08:-39:-30 **12** Griffin.

-08:-39:-30 **13** Now let's just switch gears, shift as we close out  
-08:-39:-30 **14** here and talk about jury instructions. This is from page 26 of  
-08:-39:-30 **15** your instructions. Again, all of them are important.  
-08:-39:-30 **16** Remember the instruction: They're all equally important. A  
-08:-39:-30 **17** couple of these you've seen before, maybe from Mr. Hartman  
06:08:49 **18** earlier. But remember that, in part, again, is just part of  
06:08:54 **19** the instruction, that to convict any defendant, the government  
-08:-39:-30 **20** must prove beyond a reasonable doubt that he knew about the  
06:09:01 **21** conspiracy's main purpose. And, again, I've added the emphasis  
-08:-39:-30 **22** here, that he voluntarily joined it intending to help advance or  
06:09:11 **23** achieve its goals. That's absolutely crucial with regard to  
-08:-39:-30 **24** Wassim and this case.

-08:-39:-30 **25** Likewise, also on page 26 regarding the conspiracy

06:09:21 **1** instruction, proof that a defendant simply knew about a  
-08:-39:-30 **2** conspiracy or was present at times, or associated with members  
06:09:30 **3** of the group is not enough, even if he approved of what was  
-08:-39:-30 **4** happening or did not object to it.  
06:09:38 **5** And again, even if he did something that happened  
-08:-39:-30 **6** to make it go forward doesn't necessarily make him a  
-08:-39:-30 **7** conspirator.  
06:09:46 **8** Now, the government gets the last word, as you  
06:09:49 **9** know, which is appropriate because they have the burden of  
-08:-39:-30 **10** proof. It may be that the government will say that there was  
-08:-39:-30 **11** fear of detection by Wassim after Mr. Griffin told them on May 2  
-08:-39:-30 **12** about the telephone warning from Mr. Amawi: I think somebody  
-08:-39:-30 **13** might be following me. But he still went and bought the  
-08:-39:-30 **14** paintball gun, Wassim. And he wasn't afraid of Mr. Griffin.  
-08:-39:-30 **15** He saw him on two subsequent occasions in September of '05 at  
-08:-39:-30 **16** the car lot, then again in January of '06 he asked him about the  
06:10:19 **17** mujahidin. I mean, is that what you'd ask if you were  
06:10:22 **18** concerned that somehow he was part of some government  
-08:-39:-30 **19** conspiracy? He doesn't sound nervous, if you go back and  
-08:-39:-30 **20** listen to the January 30, 2006 recording. He's just not  
06:10:33 **21** interested, and he's not defensive at that time.  
-08:-39:-30 **22** As you know, the burden of proof is on the  
-08:-39:-30 **23** government for each element, as we discussed during the  
06:10:41 **24** beginning. Inherent in proving the first two charges, Counts 1  
-08:-39:-30 **25** and 2, against Wassim are proving some form of intent and

06:10:50 **1** purpose. The evidence here, although sometimes laced with  
06:10:55 **2** offensive rhetoric, unquestionably shows defense of self and  
-08:-39:-30 **3** family and a possible return to Lebanon. If the intent is  
06:11:03 **4** benign, he didn't intend to go and commit an illegal act like  
-08:-39:-30 **5** violent jihad, then everything he did is legal. Going to the  
-08:-39:-30 **6** shooting range, buying a paintball gun, it's all legal, as it  
06:11:17 **7** would be independently. And the government has to convince you  
06:11:21 **8** by proof beyond a reasonable doubt that his intent was sinister,  
-08:-39:-30 **9** that his intent was unlawful or illegal. And Wassim may have  
-08:-39:-30 **10** been sympathetic with some of Griffin's views, but there was not  
-08:-39:-30 **11** agreement of purpose.

-08:-39:-30 **12** You'll be glad to see this slide is entitled  
-08:-39:-30 **13** "Conclusion". The bad news for you is there's more than one  
06:11:42 **14** slide labeled "Conclusion".

-08:-39:-30 **15** Key factors in discerning Wassim's intent. The  
-08:-39:-30 **16** statement of purpose and intent by Wassim was made clear on  
06:11:51 **17** November 17 of '04 during that first meeting with Mr. Amawi and  
06:11:55 **18** Mr. Griffin.

06:11:56 **19** He's been consistent throughout with statements to  
-08:-39:-30 **20** his brother Bilal all the way up to and through his statement to  
-08:-39:-30 **21** Bilal, the brother in the back seat of the car, in Arabic on  
-08:-39:-30 **22** April 29, that second trip to the shooting range. He told his  
06:12:11 **23** closest confidant, his brother, in Arabic, not knowing he was  
-08:-39:-30 **24** being recorded by Mr. Griffin.

06:12:16 **25** In discerning his intent, again, look at November

06:12:21 **1** 17, look at the fact that he told two friends and a relative  
06:12:28 **2** about the fact that he was going to the shooting range to train.  
06:12:31 **3** It's true, he didn't tell them that he asked also for training  
06:12:35 **4** about IEDs and bombs and other things. He hadn't gotten it.  
-08:-39:-30 **5** What he had gotten was handgun training. That's what he asked  
06:12:43 **6** about. Wassim tells his brother, We're not these kind of  
-08:-39:-30 **7** people, on April 29 in the back seat of his car. And are his  
06:12:50 **8** actions largely consistent with that expression of intent he  
-08:-39:-30 **9** told his family and friends? His brother was not involved in  
06:13:00 **10** any way on the evidence in this case in training at the shooting  
-08:-39:-30 **11** range.

-08:-39:-30 **12** At the beginning of this argument, way back before  
-08:-39:-30 **13** lunch, I told you that each side, clearly, would say clearly  
06:13:18 **14** he's guilty or clearly he's not guilty with statements that were  
06:13:23 **15** troubling to you or comforting to you, depending on your view of  
06:13:27 **16** the evidence in this case. But again, that wouldn't be the  
-08:-39:-30 **17** right thing to do. The right thing to do is to step back, open  
-08:-39:-30 **18** your minds, as I know you do, and look at all of the evidence  
-08:-39:-30 **19** and consider it together if some things point to guilt and  
-08:-39:-30 **20** others to innocence.

-08:-39:-30 **21** The Court's instruction guides us. This is from  
-08:-39:-30 **22** page 5. If you find the evidence in the case could reasonably  
06:13:48 **23** support either of two conclusions, one of guilt, the other of  
-08:-39:-30 **24** non-guilt as to any charge, you must return a verdict of not  
-08:-39:-30 **25** guilty as to that charge.

06:13:59 **1** Also from page 5, reasonable doubt. So when  
-08:-39:-30 **2** you're assessing those things and weighing those things, "I  
-08:-39:-30 **3** think he did it," "I feel that he did it, that he's guilty of  
06:14:10 **4** the charge" is not sufficient. That's guidance that you see in  
06:14:15 **5** determining what is reasonable doubt.  
-08:-39:-30 **6** Then you can see the final statement here. Proof  
-08:-39:-30 **7** beyond a reasonable doubt means proof which is so convincing  
-08:-39:-30 **8** that you would not hesitate to rely and act on it in making the  
06:14:27 **9** most important decisions in your own lives. So that's it.  
-08:-39:-30 **10** I ask, we ask, that you take a look, that you view  
06:14:37 **11** fairly and open-mindedly everything that was done and said  
06:14:40 **12** throughout the course of the case, and ask yourself in the final  
06:14:44 **13** analysis, has the government proved to you by proof beyond a  
06:14:49 **14** reasonable doubt the intent and purpose was the unlawful intent  
-08:-39:-30 **15** and purpose charged here? I submit to you after you review all  
06:15:00 **16** the evidence and allow for application of your common sense and  
-08:-39:-30 **17** life experience, you'll decide, no, they have not, and you'll  
-08:-39:-30 **18** return verdicts of not guilty on both Count 1 and Count 2.  
-08:-39:-30 **19** I do have, if you'd like to see them, a copy of the  
-08:-39:-30 **20** timeline with the eight events. If you'd like, I can pass that  
-08:-39:-30 **21** out. If you think you've got a sufficient look with me having  
06:15:22 **22** covered it, it won't be necessary. But if you'd like, I'll pass  
06:15:28 **23** them out.  
06:15:29 **24** Judge, is that all right?  
06:15:31 **25** THE COURT: That's fine. Go ahead.

06:17:58 **1** MR. HELMICK: When you're finished, if you'd just  
-08:-39:-30 **2** pass them down to the end. If you're not finished, take your  
-08:-39:-30 **3** time.

06:18:28 **4** I've got them all, Judge, thank you.

-08:-39:-30 **5** THE COURT: Ladies and gentlemen, we'll take about  
-08:-39:-30 **6** a 15-minute break. And Mr. Sofer will present the concluding  
-08:-39:-30 **7** argument.

06:18:39 **8** MR. GETZ: May we approach?

06:21:59 **9** (Whereupon the following discussion was had at the  
-08:-39:-30 **10** bench outside the hearing of the jury:)

-08:-39:-30 **11** THE COURT: That instruction that you had.

-08:-39:-30 **12** MR. GETZ: We gave it to Amy. It's actually just  
-08:-39:-30 **13** a verdict form.

-08:-39:-30 **14** MR. TERESINSKI: It's on the 956 charge.

-08:-39:-30 **15** MR. SOFER: Because of Appendi. I don't know  
-08:-39:-30 **16** how anybody could reasonably view the evidence that, if they  
-08:-39:-30 **17** were to find they intended to maim instead of murder -- if they  
-08:-39:-30 **18** were to find that, then the sentence is, instead of life, I  
-08:-39:-30 **19** believe it's 25 or 35 years of incarceration.

-08:-39:-30 **20** THE COURT: Okay. I'll look at it.

-08:-39:-30 **21** It's only signed by the foreperson.

-08:-39:-30 **22** MR. TERESINSKI: That was a sample. I'm going to  
-08:-39:-30 **23** read it to them right after he concludes.

-08:-39:-30 **24** MR. BOSS: I know there were other verdict forms  
-08:-39:-30 **25** for the defendants, each of them separately. When they were

-08:-39:-30 **1** passed around I only saw the ones for the other two  
-08:-39:-30 **2** co-defendants and not for El-Hindi. I assume it's up there.  
-08:-39:-30 **3** I'm wondering if we can see those, too.  
-08:-39:-30 **4** (End of side-bar discussion.)  
06:38:20 **5** (Recess taken.)  
06:39:17 **6** (The jury is not present.)  
06:39:17 **7** THE COURT: Ms. Cleary suggested that I wait until  
-08:-39:-30 **8** we have a return on the general verdicts before I send them to  
06:39:27 **9** deliberate or even inform them, I gather, of the possibility  
06:39:34 **10** they'd have to deliberate on a special.  
06:39:39 **11** MR. HARTMAN: We would join in that request.  
06:39:39 **12** MR. TERESINSKI: I don't think that's right. I  
06:39:41 **13** think we should have everything together, from the government's  
06:39:44 **14** perspective.  
06:44:05 **15** We wanted to make sure. We would like Your Honor  
06:44:09 **16** to not separate or parse it out, not to parse out the separate  
06:44:18 **17** question. Obviously it's a conspiracy to kill, maim, or murder  
06:44:22 **18** or maim. And for our country, in order for the jury to come  
-08:-39:-30 **19** back with a guilty verdict on the conspiracy charge, they have  
06:44:29 **20** to decide, obviously, what the purpose is to that conspiracy.  
-08:-39:-30 **21** It should be done at the same time.  
-08:-39:-30 **22** THE COURT: I'll think about it. I know what each  
-08:-39:-30 **23** party wants. Okay. As to form, is that verdict okay? Is the  
-08:-39:-30 **24** special verdict okay?  
06:44:56 **25** MS. CLEARY: Yes, Your Honor.

06:50:37 **1** (Jury enters the courtroom.)

06:50:40 **2** THE COURT: Mr. Sofer, you may begin your final

-08:-39:-30 **3** argument.

06:50:44 **4** MR. SOFER: Thank you, Judge.

06:50:46 **5** Good afternoon, ladies and gentlemen.

-08:-39:-30 **6** THE JUROR: Good afternoon.

-08:-39:-30 **7** MR. SOFER: This is going to be the last time that

-08:-39:-30 **8** the government has an opportunity to talk to you before you

06:50:54 **9** begin your deliberations in this case. As you've heard over

-08:-39:-30 **10** and over, the burden of proof lies with the government, and we

-08:-39:-30 **11** gladly accept that burden. But that does not mean, again, that

06:51:05 **12** you should not critically analyze the arguments that have been

06:51:08 **13** made here to you by the defense attorneys for each of the

-08:-39:-30 **14** defendants. I'm going to go through each of their summations.

-08:-39:-30 **15** I will not spend nine hours doing this like the last time. The

-08:-39:-30 **16** government, as I said the first time, has got to rely on you,

-08:-39:-30 **17** ladies and gentlemen, to critically analyze the evidence that

06:51:30 **18** you have before you, and that is all of the evidence.

-08:-39:-30 **19** I know everyone's gotten up here and talked about

-08:-39:-30 **20** you looking at all of the evidence, and that's a major task in

06:51:40 **21** this case. I also have noticed you making lots of notes in the

-08:-39:-30 **22** case, and I know that you've paid attention very carefully.

06:51:49 **23** The important point I think -- and I'm going to go through this;

-08:-39:-30 **24** I'm going to go through each of defense attorneys' arguments.

-08:-39:-30 **25** They did not concentrate on all of the evidence, nor did the



-08:-39:-30 **1** government in its summation. We couldn't. We'd be here all day  
-08:-39:-30 **2** long. We tried to give you a fair example in the first  
-08:-39:-30 **3** summation of what the evidence shows. I'm going to now try to  
-08:-39:-30 **4** explain how it is that some of the arguments that have been made  
-08:-39:-30 **5** to you over the last couple days by the defense attorneys are  
-08:-39:-30 **6** not, in fact, based on all of that evidence and that there are  
06:52:22 **7** things that you know and that you can look at in the evidence to  
06:52:25 **8** refute all of what they're saying.

06:52:28 **9** I'm going to go in opposite order. Keep in mind,  
-08:-39:-30 **10** I just heard these summations also, so we're sort of analyzing  
-08:-39:-30 **11** these together, and I apologize if it's not a well-oiled  
-08:-39:-30 **12** machine -- although it hasn't always been that way -- that it  
-08:-39:-30 **13** has in the past, as we maybe try to go through a couple clips as  
06:52:48 **14** well.

06:52:49 **15** First of all, Mr. Helmick made a closing argument  
-08:-39:-30 **16** on behalf of Wassim Mazloun. And he said, and I agree with him  
-08:-39:-30 **17** 100 percent, that cherry-picking out of the large volume of  
-08:-39:-30 **18** evidence that you have is really not the right thing to do. I  
-08:-39:-30 **19** don't believe the government has done that. That will be your  
06:53:10 **20** determination to make. But the swath of evidence that we have  
06:53:14 **21** produced and commented on to you is hardly cherry-picking. I  
-08:-39:-30 **22** don't think that that can be said, though, necessarily for Mr.  
-08:-39:-30 **23** Helmick. And I hope that you noticed as he was making his  
06:53:29 **24** arguments that he would refer to portions of conversations, but  
-08:-39:-30 **25** leave other very significant portions of those conversations

-08:-39:-30 **1** out. I'll try to emphasize what those were.

06:53:40 **2** First I want to talk little bit about the fact --

06:53:44 **3** one of the things that Mr. Helmick said about Darren Griffin

06:53:49 **4** running the show. Keep in mind here, this is a very important

-08:-39:-30 **5** point with respect to Mr. Mazloun, that Defendant Mazloun was

-08:-39:-30 **6** not brought into this conspiracy by Darren Griffin. He was

-08:-39:-30 **7** brought into the conspiracy by Mohammad Amawi, and they had

-08:-39:-30 **8** prior conversation.

-08:-39:-30 **9** Now you know a lot about Mohammad Amawi; you've

-08:-39:-30 **10** heard a whole lot of recordings about what he thought, what he

-08:-39:-30 **11** believed, what he believed the purpose of the training to be.

-08:-39:-30 **12** And I submit to you, ladies and gentlemen, it is fair to infer

06:54:19 **13** that given everything that you've heard from Mohammad Amawi,

-08:-39:-30 **14** Wassim Mazloun knew exactly what the purpose of this training

-08:-39:-30 **15** was before he even met Darren Griffin on November 17. And

06:54:32 **16** Mohammad Amawi talked a lot about who he could trust and who he

-08:-39:-30 **17** could not trust. You know Mohammad Amawi did not trust his own

06:54:39 **18** brother, but he trusted Wassim Mazloun. And again, you can

06:54:43 **19** infer from that that they had a relationship and that they had

06:54:46 **20** discussed things and that they had a common meeting of the

06:54:50 **21** minds.

06:54:52 **22** One of the things that Mr. Helmick said was that

06:54:56 **23** Darren Griffin was apologizing for U.S. action abroad. He was

-08:-39:-30 **24** doing a lot more than that. He was talking about targeting

-08:-39:-30 **25** United States forces, and he did this in front of Wassim

-08:-39:-30 **1** Mazloun, and Wassim Mazloun talked to Darren Griffin about this.

-08:-39:-30 **2** He talked about targeting United States forces, teaching United

06:55:16 **3** States tactics and teaching the tactics of the mujahidin. This

-08:-39:-30 **4** is not just apologizing for U.S. military actions overseas.

06:55:29 **5** Now, there was a whole lot of talk about this duty

-08:-39:-30 **6** to train and this training for self-defense, but you know -- and

-08:-39:-30 **7** we may be able to play a clip or two; we may not -- you know

-08:-39:-30 **8** from listening to these clips that the things that Darren

-08:-39:-30 **9** Griffin was talking to Wassim Mazloun about are not how to

-08:-39:-30 **10** defend yourself and your house and your family. You don't need

06:55:56 **11** to learn about IEDs to learn how to defend your house. You

-08:-39:-30 **12** don't have to learn how to snipe to defend your house. That

-08:-39:-30 **13** just doesn't make any sense. These are offensive military

06:56:09 **14** tactics. They're much more consistent with training for jihad

-08:-39:-30 **15** and the kinds of things that you saw on those videos and the

-08:-39:-30 **16** kinds of things that these men discussed than they are the

06:56:20 **17** defense of somebody's home.

06:56:22 **18** Remember that Wassim Mazloun specifically asked for

-08:-39:-30 **19** training on ambushing. Well, again, ask yourself: What does

-08:-39:-30 **20** training on ambushing have to do with protecting your house?

-08:-39:-30 **21** Ambush is an offensive action. And I submit to you, ladies and

-08:-39:-30 **22** gentlemen, the context of the case, the bigger context of the

-08:-39:-30 **23** case, all the evidence, we know exactly who it was that Wassim

06:56:47 **24** Mazloun was looking to learn to ambush.

06:56:53 **25** There was a long discussion about discretion versus

-08:-39:-30 **1** secrecy. Again, the government submits to you if you look at  
-08:-39:-30 **2** what actually happened here, it's clear that we're not talking  
-08:-39:-30 **3** about the discretion of "we are a little different than  
06:57:09 **4** everybody else," "we have long beards, so therefore we shouldn't  
-08:-39:-30 **5** do certain things;" actually, you know, for a lot of different  
06:57:16 **6** reasons. One is they actually did go train. As Mr. Helmick  
06:57:20 **7** said, they used their real names, although I would suggest to  
06:57:23 **8** you, if you listen to those conversations, you'll hear a  
-08:-39:-30 **9** discussion from Wassim Mazloum saying: Should we get fake IDs?  
-08:-39:-30 **10** But they do use their real names, and they do use their real  
-08:-39:-30 **11** I.D. And what does that show you?  
-08:-39:-30 **12** This is not a question of discretion of a bunch of  
06:57:40 **13** Muslim males with beards can't go to a shooting range. There  
-08:-39:-30 **14** is something that they are much more worried about, so secret  
-08:-39:-30 **15** that they can't talk about it; so secret that it's a problem  
-08:-39:-30 **16** when Mohammad Amawi's brother even learns that they're going  
-08:-39:-30 **17** shooting. And that's not about discretion or sensitivity about  
06:58:00 **18** Muslims in the United States going shooting. Actually, you saw  
-08:-39:-30 **19** them shooting in the video. Nobody even blinks an eye.  
-08:-39:-30 **20** There's nothing wrong with these guys shooting. As we've said  
-08:-39:-30 **21** over and over and over again, the shooting is not what is  
06:58:15 **22** illegal. It's the purpose of the shooting. And the fact that  
-08:-39:-30 **23** he is so worried about what the purpose of that shooting is  
-08:-39:-30 **24** shows you that he knows what the purpose of the training is, and  
-08:-39:-30 **25** that shows you that he has the intent to commit the crimes that

06:58:31 **1** he's charged with.

06:58:36 **2** Remember Wassim Mazloun's line: We shouldn't talk

-08:-39:-30 **3** at all. Well, again, that's not discretion; we shouldn't talk

-08:-39:-30 **4** at all. He's not talking at all about the purpose. Again,

-08:-39:-30 **5** the evidence shows that what is being -- what they don't want to

-08:-39:-30 **6** discuss, what's secret, not some sort of discretion, what's

-08:-39:-30 **7** secret is the purpose.

06:59:04 **8** On November 17, '04 is where Mr. Helmick began.

-08:-39:-30 **9** And again, I ask you, if you use your common sense and reason,

-08:-39:-30 **10** what did Mohammad Amawi tell Wassim Mazloun before he even got

-08:-39:-30 **11** there about the purpose of what Darren Griffin could provide?

06:59:29 **12** It makes sense that he would have talked about the jihad

-08:-39:-30 **13** training. And remember he called, I believe, Mohammad Amawi

-08:-39:-30 **14** when he had discussed Wassim Mazloun some time ago. In the

06:59:40 **15** context of another conversation about jihad, he said Wassim

-08:-39:-30 **16** Mazloun is a real man. Again, this is a man who didn't trust

06:59:47 **17** his own brother for this.

-08:-39:-30 **18** Now, it's very interesting what Mr. Helmick played

-08:-39:-30 **19** and didn't play from November 17. I submit to you if you

-08:-39:-30 **20** actually listen to a number of conversations, a number of

07:00:01 **21** portions of the conversation, even the whole conversation that

07:00:04 **22** was recorded by Darren Griffin on November 17, you'll see that

-08:-39:-30 **23** much of what Counsel has said about the safety and fear of

07:00:14 **24** Muslims being the only thing he was worried about completely

07:00:19 **25** evaporates.

07:00:20 **1** Let's try playing 10-69185-2A-1. Again, I  
07:00:36 **2** apologize if we have a couple delays. We're just now trying to  
-08:-39:-30 **3** figure out which ones we're going to play for you.  
07:01:47 **4** (Audio is played.)  
-08:-39:-30 **5** MR. SOFER: Going there for fun. I mentioned  
-08:-39:-30 **6** this in the first summation. Not just going there for fun.  
-08:-39:-30 **7** Where is "there," you should ask yourselves. It is clear from  
-08:-39:-30 **8** these conversations. Any question about what's really being  
07:02:00 **9** discussed, listen to rest of these recordings. They are  
-08:-39:-30 **10** talking about jihad.  
07:02:07 **11** (Audio is played.)  
07:02:55 **12** MR. SOFER: Keep in mind again, Mr. Helmick said,  
-08:-39:-30 **13** when it helped him to say he's there, he hears certain things;  
-08:-39:-30 **14** he would argue to you that he's there to hear Amawi say one  
07:03:06 **15** thing or another that helped him. When it hurts him, he  
07:03:10 **16** doesn't want you to listen to that. I'm suggesting that Wassim  
07:03:13 **17** Mazloun is listening to all of this, and he knows exactly what  
-08:-39:-30 **18** this training is for.  
07:05:21 **19** (Audio is played.)  
-08:-39:-30 **20** MR. SOFER: Here, ladies and gentlemen, comes one  
-08:-39:-30 **21** of the important parts.  
07:05:25 **22** "We're going to focus against the military." It's  
07:05:42 **23** not: We're going to focus on going to Lebanon. It's not:  
-08:-39:-30 **24** We're going to focus on self-defense. It says: We're going to  
07:05:50 **25** focus against the military. What does Wassim say? He says:

-08:-39:-30 **1** That's right. And a little later he's going to say: The true  
-08:-39:-30 **2** message, the fight is in -- in the, you know, the land of the  
07:06:02 **3** Army. And again, "the land of the Army" he's talking about is  
-08:-39:-30 **4** not Lebanon. It's where our Army is, ladies and gentlemen.  
07:06:10 **5** And this is the first -- keep in mind, this is only the first  
07:06:14 **6** conversation here. But the notion that the only thing Wassim  
07:06:18 **7** Mazloun understood at that point was that he was going to go  
-08:-39:-30 **8** fight in Lebanon, go back to his country and fight and be able  
-08:-39:-30 **9** to be prepared for his military service in Lebanon is not  
07:06:29 **10** consistent with this evidence.  
07:06:58 **11** (Audio is played.)  
07:06:59 **12** MR. SOFER: Again, the charge in this case does  
-08:-39:-30 **13** not require that you find that these defendants have selected,  
07:07:06 **14** even Iraq necessarily, as the only place that they were going to  
-08:-39:-30 **15** go, but it certainly doesn't require that they had selected  
-08:-39:-30 **16** specific victims. And it doesn't require that they agree on  
07:07:19 **17** everything. They definitely had some disagreement about what  
-08:-39:-30 **18** an innocent person was; who was innocent and when.  
07:07:28 **19** The one thing they agreed on, the one thing clearly  
-08:-39:-30 **20** they agreed on, was targeting the United States military was  
-08:-39:-30 **21** okay. And this conversation shows Wassim agreed with that as  
07:07:39 **22** well.  
07:07:40 **23** We can stop it here.  
07:07:42 **24** Now, Amawi refers to, in this same conversation I  
-08:-39:-30 **25** believe, a pact that they're all in agreement. And Mr. Helmick

-08:-39:-30 **1** said, well, he could have said this, or he could have said that.

-08:-39:-30 **2** Wassim was there; someone could have said this, someone could

-08:-39:-30 **3** have said that. Again, I would ask you to consider this

07:08:03 **4** argument: You can't have it both ways. You can't say, well,

-08:-39:-30 **5** when Amawi says something that's good for Wassim that that means

-08:-39:-30 **6** he was listening, paying attention, and that you can infer what

-08:-39:-30 **7** he meant. Then every time Mohammad Amawi says something that's

07:08:16 **8** bad for Wassim, that you should ignore that. Here there's a

-08:-39:-30 **9** pact, and he says there's a pact. And Wassim doesn't say: Oh,

07:08:24 **10** wait a minute; get me out of here; I want no part of this. Not

-08:-39:-30 **11** only does he continue with this meeting, but he continues to

-08:-39:-30 **12** have many other meetings.

-08:-39:-30 **13** And yes, I have said over and over again, any one

07:08:37 **14** of these men could have run, not walked, away from Darren

-08:-39:-30 **15** Griffin or each other at any moment. And if you continue to

-08:-39:-30 **16** look at what happens throughout this, you will see that, in

07:08:49 **17** fact, there are multiple opportunities for that to happen.

-08:-39:-30 **18** Multiple opportunities to say, I disagree, or, I don't believe

-08:-39:-30 **19** in what you're saying. And sometimes they do say I don't

07:08:59 **20** agree. That means they can do it.

-08:-39:-30 **21** This notion that Wassim Mazloun was so deferential

07:09:03 **22** to Darren Griffin is also not consistent with the evidence.

-08:-39:-30 **23** Remember all those other recordings where Wassim is saying to

07:09:09 **24** Darren Griffin: Let's get this going; let's get this pace up.

-08:-39:-30 **25** That's not such a deferential statement; the tone of voice that



-08:-39:-30 **1** he uses talking to Darren Griffin, not deferential. When  
-08:-39:-30 **2** Darren Griffin suggests, hey, when we go overseas, and if we're  
-08:-39:-30 **3** over in Iraq and get caught by the mujahidin, they can call us  
07:09:27 **4** back; you can have someone back at home to answer the phone.  
07:09:30 **5** That was, again, not an evil genius, certainly not a genius  
-08:-39:-30 **6** remark. Both Mohammad Amawi and Wassim Mazloun get on his  
-08:-39:-30 **7** case: What you're talking about, that doesn't make sense.  
07:09:44 **8** That doesn't make sense. We should let them know before we get  
-08:-39:-30 **9** there. This is not deference to somebody. This is somebody  
-08:-39:-30 **10** who is eager to move along and is often, very often along with  
-08:-39:-30 **11** Mohammad Amawi, pushing Darren Griffin to give them what they  
07:09:57 **12** want. And it's not -- it is not just training to shoot, as you  
-08:-39:-30 **13** know from these conversations. And they left that out of these  
07:10:10 **14** conversations. Every time Wassim Mazloun says the most  
-08:-39:-30 **15** important thing is to learn how to snipe, or, I want you to  
07:10:15 **16** teach us how to make bombs, you didn't see that up here.  
-08:-39:-30 **17** There's a number of those conversations. I'm not going to play  
-08:-39:-30 **18** them for you because we don't have the time. And again, the  
-08:-39:-30 **19** government has to rely on you critically analyzing this  
07:10:28 **20** information.  
07:10:41 **21** 2/16, no question it's a critically important date  
-08:-39:-30 **22** in the case. It's not the only critically important date in  
-08:-39:-30 **23** the case. I submit to you, as it affects Wassim Mazloun, the  
-08:-39:-30 **24** moment he has conspired with Mohammad Amawi in this case, both  
-08:-39:-30 **25** of them, assuming other elements of the crime have been met,

07:11:03 **1** both of them were guilty of the crime charged. The moment  
07:11:07 **2** those two get together, it only required two or more people, one  
-08:-39:-30 **3** of which among those people -- the only other person can't be a  
-08:-39:-30 **4** government informant or a government agent. As soon as Wassim  
-08:-39:-30 **5** Mazloun and Mohammad Amawi have conspired together, assuming the  
07:11:24 **6** other elements have been met for each of these charges, the case  
-08:-39:-30 **7** is over for them.  
-08:-39:-30 **8** I'm not suggesting that you should find them guilty  
-08:-39:-30 **9** based on November 17. It's only the beginning. Look at all  
-08:-39:-30 **10** the things that happened after November 17, and look at all the  
-08:-39:-30 **11** things that happened after February 16. And there can be no  
-08:-39:-30 **12** doubt, no doubt, that by February 16, Wassim Mazloun knew  
-08:-39:-30 **13** exactly what this agreement was about.  
07:11:54 **14** Let me tell you a couple things. This will apply  
-08:-39:-30 **15** to the other defendants, too. If all Wassim Mazloun did was  
-08:-39:-30 **16** help Mohammad Amawi ultimately to attain the goals of this  
-08:-39:-30 **17** conspiracy, and he did that with the intent that Mohammad Amawi  
07:12:12 **18** go overseas and commit these crimes, he's also guilty of these  
-08:-39:-30 **19** crimes. So when Mohammad Amawi trains Wassim Mazloun -- and  
-08:-39:-30 **20** this notion that Wassim Mazloun didn't understand English is  
-08:-39:-30 **21** also completely belied by the evidence. He may not be the best  
07:12:31 **22** speaker in the world, but you have conversation after  
07:12:33 **23** conversation after conversation that you can listen to; there's  
-08:-39:-30 **24** no comprehension problem here. These are not simple  
-08:-39:-30 **25** two-year-old conversations. They're having adult

07:12:44 **1** conversations. He understands what's happening. You can  
-08:-39:-30 **2** decide that.

-08:-39:-30 **3** It's not a question of Mohammad Amawi had to  
07:12:50 **4** translate certain kinds of training for Wassim Mazloun. That  
07:12:53 **5** is not consistent with this evidence. It's not reasonable.

-08:-39:-30 **6** And when you go back there to deliberate, the critical point is  
-08:-39:-30 **7** "reasonable."

07:13:05 **8** Reasonable doubt. I'll talk a little bit about  
-08:-39:-30 **9** that instruction again. The defense attorneys have taken  
-08:-39:-30 **10** portions -- just like they have of the recordings -- they've  
-08:-39:-30 **11** taken portions of these charges to show you. I'm going to show  
07:13:19 **12** you the rest of those charges. But what's important when you go  
07:13:22 **13** back there is: Is it reasonable? Of course you have to use  
-08:-39:-30 **14** your common sense.

07:13:29 **15** When he goes on February 16 to Marwan El-Hindi's  
07:13:32 **16** house, in that conversation you can hear Wassim Mazloun say when  
-08:-39:-30 **17** they describe where they're going, That's the brother's place,  
-08:-39:-30 **18** but are we also going to train? But he knows. This is not a  
-08:-39:-30 **19** completely new concept to him. He knows they're going to a  
07:13:51 **20** brother's place. He knows they're going to Marwan El-Hindi's  
07:13:55 **21** place. He knows that. It's not completely out of the blue.

-08:-39:-30 **22** He also says in another conversation, Oh, Mohammad  
07:14:02 **23** Amawi insisted we eat together. So he had had a conversation  
07:14:05 **24** earlier that day with Mohammad Amawi about where they were going  
-08:-39:-30 **25** and likely what they were doing.

-08:-39:-30 **1** And again, this comes off of the November 17  
07:14:12 **2** conversation. It does not take place in a vacuum. Wassim  
07:14:20 **3** agrees to go over. He doesn't say: Forget it; get me out of  
07:14:24 **4** here; I want no part of this; I saw enough on November 17;  
-08:-39:-30 **5** Mohammad Amawi, you said some things that are frightening to me;  
07:14:31 **6** I'm not down for this; I don't want any part of this. He shows  
-08:-39:-30 **7** up, and he -- again, I can only ask you to watch these in this  
-08:-39:-30 **8** case, there's a video also, watch and listen to these  
07:14:42 **9** recordings. Wassim Mazloun is an eager participant in all of  
07:14:46 **10** this. He is not -- people are quiet at different times.  
-08:-39:-30 **11** Marwan El-Hindi does get up here and that, but they are all  
-08:-39:-30 **12** there. And "riveted" may not be the best word, but it certainly  
-08:-39:-30 **13** is a word that applies. They are watching Darren Griffin, and  
07:15:00 **14** they are interacting with Darren Griffin. The notion that one  
-08:-39:-30 **15** guy's asleep and another guy's arm wrestling and another guy's  
-08:-39:-30 **16** playing tiddlywinks is just not accurate. It's not what that  
07:15:14 **17** video shows.  
07:15:27 **18** I think we'll play a little bit of the beginning of  
07:15:30 **19** that meeting on November 17 where Darren Griffin lays it all  
07:15:34 **20** out, I'll play it a little later when we go through Marwan, to  
07:15:46 **21** decide whether he was there to hear enough of this or not. But  
-08:-39:-30 **22** the fact is Wassim Mazloun also was there for enough of that.  
07:15:53 **23** Keep in mind, after all of that, after all of that, what do they  
07:15:56 **24** do? They retire to another room in Marwan El-Hindi's house,  
-08:-39:-30 **25** and they go watch a video of ambushing troops and killing other

-08:-39:-30 **1** people. So when Mr. Hartman says actions speak louder than  
-08:-39:-30 **2** words, I agree with him. You've just now agreed to this kind  
-08:-39:-30 **3** of training.

07:16:21 **4** We'll play it again in a little bit. But again, I  
07:16:24 **5** defer to your knowledge and notes at this juncture. And if you  
-08:-39:-30 **6** don't remember, please ask to play it again. After all that,  
-08:-39:-30 **7** what do they do? They go back and they watch a video on  
07:16:38 **8** ambushing.

-08:-39:-30 **9** I like how Mr. Helmick calls these "provocative  
07:16:44 **10** comments." "Provocative comments;" that's certainly one way of  
07:16:49 **11** looking at it. The other thing that they could be considered  
-08:-39:-30 **12** are expressions of intent, these "provocative comments".

07:16:59 **13** He, like a lot of defense attorneys, sort of  
07:17:02 **14** sloughs aside the notion of -- the most important thing that  
-08:-39:-30 **15** Wassim Mazloun says that day. When asked, Where do you want to  
07:17:10 **16** go? He doesn't say anything about training in Lebanon. He  
-08:-39:-30 **17** does mention the al-Sham countries. But remember, the al-Sham  
-08:-39:-30 **18** countries include Israel and a number of other places. He  
07:17:23 **19** says: Mainly Iraq. Again, what is reasonable here? What  
-08:-39:-30 **20** does your common sense tell you? Why on earth would he say that  
-08:-39:-30 **21** if that's not what he wanted? Why would he say that? If he's  
-08:-39:-30 **22** so worried about discretion, if he's so worried about saying  
-08:-39:-30 **23** something which could cause a problem, and he is over and over  
07:17:47 **24** again, why does he actually put it all out there? He's now in  
-08:-39:-30 **25** the privacy of a home where he trusts the other people. He

07:17:56 **1** trusts the fact that Mohammad Amawi brought him to Darren  
07:17:58 **2** Griffin. He now trusts the fact that Darren Griffin and  
07:18:00 **3** Mohammad Amawi have brought him to Marwan El-Hindi's. And when  
07:18:04 **4** asked, when an unambiguous question is asked of him, he gives a  
-08:-39:-30 **5** fairly unambiguous answer: Mainly Iraq.  
-08:-39:-30 **6** There's only one reason to go to Iraq under the  
-08:-39:-30 **7** circumstances. And the rest of the case shows you that, and  
07:18:20 **8** all the videos show you that, and all the interaction between  
07:18:23 **9** the defendants show you that. It's not to give out flowers.  
-08:-39:-30 **10** It's to attack our troops. That's why you have to learn IEDs  
07:18:32 **11** and sniping.  
07:18:40 **12** And he doesn't stop there. That's not the last  
-08:-39:-30 **13** time Wassim Mazloun follows up on and asks about Iraq. You  
-08:-39:-30 **14** have a number of other examples over a long period of time. It  
07:18:55 **15** may be spaced out, but it also shows you over an incredibly long  
-08:-39:-30 **16** period of time under the circumstances this man remains  
07:19:02 **17** interested not in Lebanon, not self-defense, but the Mujahidin  
07:19:07 **18** in Iraq. That's what he's interested in.  
07:19:17 **19** Again, you have to put these conversations in  
07:19:22 **20** context. A number of the defense attorneys have referred to  
07:19:27 **21** some of these conversations as political conversations. I  
-08:-39:-30 **22** submit to you, ladies and gentlemen, these are not political  
07:19:35 **23** conversations. Political conversations do not involve killing  
-08:-39:-30 **24** other people, watching videos over and over again of the murder  
07:19:44 **25** of United States troops, trying to learn tactics, trying to

-08:-39:-30 **1** learn training, asking for particular kinds of training. Those  
07:19:53 **2** are not political conversations. When you're asking, Where do  
07:19:56 **3** you want to go, and you say, Mainly Iraq, that's not political  
-08:-39:-30 **4** conversation.  
07:20:03 **5** It's also not hypothetical. Something else Mr.  
-08:-39:-30 **6** Helmick says, hypothetical questions. Wassim Mazloun follows  
-08:-39:-30 **7** up on the connections of Mohammad Amawi and Darren Griffin in  
-08:-39:-30 **8** Iraq. It wasn't hypothetical that they went overseas. They  
-08:-39:-30 **9** went. He heard Mohammad Amawi talking about his contact in  
-08:-39:-30 **10** Syria. Remember what he said that day? He pipes in and says:  
07:20:32 **11** We need to stay in contact. There's another example of him  
07:20:35 **12** being interested in him staying in contact with the mujahidin.  
-08:-39:-30 **13** We need to stay in contact with them. That was Wassim that  
-08:-39:-30 **14** said that; it wasn't Darren Griffin that suggested it.  
07:20:51 **15** "There's not an agreement; they're testing the  
-08:-39:-30 **16** boundaries." That statement from Mr. Helmick, ladies and  
-08:-39:-30 **17** gentlemen, I submit to you, of course there's an agreement here.  
-08:-39:-30 **18** It's on a number of recordings. Certainly by February 16 there  
-08:-39:-30 **19** is an agreement.  
07:21:13 **20** This whole Lebanon thing, again, ladies and  
-08:-39:-30 **21** gentlemen, it does not make sense. Common sense indicates that  
-08:-39:-30 **22** it is not a reasonable -- it's not even a reasonable doubt.  
-08:-39:-30 **23** When Wassim Mazloun talks about what's going to happen in  
-08:-39:-30 **24** Lebanon, he always is couching it in terms of what he can get  
-08:-39:-30 **25** out of that training for Jihad, not the other way around. This

-08:-39:-30 **1** is a critically important point. Every time they talk about  
-08:-39:-30 **2** Lebanon, he says: I could learn techniques there; I can get  
07:21:46 **3** contacts over there; I can find other brothers there. That's  
-08:-39:-30 **4** what he says about training in Lebanon. He doesn't say: I  
07:21:55 **5** need to learn this so I can go back to Lebanon and defend  
-08:-39:-30 **6** myself, or so that I can get a head start on my training there.  
-08:-39:-30 **7** In fact, ladies and gentlemen, some of the evidence in this case  
07:22:05 **8** indicates he wasn't really ever going back to Lebanon. He  
07:22:08 **9** certainly was planning on being a citizen, and he says on one of  
-08:-39:-30 **10** the recordings: I can't go back to Lebanon for any significant  
-08:-39:-30 **11** time while I'm still applying for my citizenship. So it's not  
-08:-39:-30 **12** at all clear that he was headed back to Lebanon at all. Maybe  
-08:-39:-30 **13** he was keeping that option open.

07:22:23 **14** But what he says on these recordings is that he  
07:22:26 **15** wants to use that training to assist in the kinds of things that  
-08:-39:-30 **16** he wants jihad training for. Again: contacts, techniques. He  
07:22:37 **17** talks about they teach you how to blow up tanks. You don't  
-08:-39:-30 **18** have to blow up tanks to defend yourself in your house.

07:22:53 **19** Mr. Helmick said there was no oath, there was no  
-08:-39:-30 **20** creed, and there were no dues. Well, this isn't the Boy  
07:22:59 **21** Scouts, ladies and gentlemen. You don't sit there and take the  
-08:-39:-30 **22** Boy Scout oath, pay your dues. That's not what this is. And,  
-08:-39:-30 **23** in fact, the Judge's charge, I believe, talks about in most  
-08:-39:-30 **24** conspiracies you rarely get anyone really talking in any kind of  
07:23:12 **25** depth necessarily about what it is they want to do at all. You



-08:-39:-30 **1** have to judge by other kinds of circumstantial evidence. Here  
-08:-39:-30 **2** you have a lot more than that. But it certainly doesn't  
-08:-39:-30 **3** require everyone to stand up, raise their right hand and say: I  
-08:-39:-30 **4** today promise to be a mujahidin and kill U.S. troops. That  
07:23:31 **5** doesn't make common sense. You should not expect that. It's  
-08:-39:-30 **6** not what life is about, and it's not reasonable.  
07:23:41 **7** April 13 they talk about wanting to go to the  
-08:-39:-30 **8** shooting range. But again, Wassim Mazloun wants other things,  
07:23:52 **9** too. And Counsel is asking you to find that the purpose of all  
07:23:59 **10** of this was just to learn how to shoot. That is completely  
07:24:05 **11** belied by some of the recordings.  
-08:-39:-30 **12** I think, I may be wrong, let's try 48-691853A-5; it  
-08:-39:-30 **13** could also be -7.  
07:24:40 **14** (Video is played.)  
07:25:04 **15** MR. SOFER: Again, not self-defense. He doesn't  
07:25:08 **16** just want to shoot. In fact, I think in the first summation we  
-08:-39:-30 **17** laid out a whole series where shooting wasn't good enough for  
-08:-39:-30 **18** these guys. Maybe part of the reason that Wassim Mazloun  
07:25:19 **19** really wasn't contacting Darren Griffin so much was he was ready  
-08:-39:-30 **20** to move on to the next phase, and Darren Griffin was not going  
-08:-39:-30 **21** to give him the next phase. As you know, he was not going to  
-08:-39:-30 **22** give him the next phase. Let's play a little more.  
07:25:34 **23** (Video is played.)  
07:26:03 **24** MR. SOFER: Again, right there that's the end of  
-08:-39:-30 **25** any reasonable doubt about whether, in fact, Wassim Mazloun only

07:26:13 **1** wanted to train to shoot and only wanted to train to defend his  
-08:-39:-30 **2** own. That's it. They're his words. We talked about this  
07:26:22 **3** over and over again. The fact Darren Griffin -- there's no  
-08:-39:-30 **4** doubt that the defense attorneys want to attack Darren Griffin;  
07:26:32 **5** they have attacked Darren Griffin. It shouldn't surprise any  
-08:-39:-30 **6** of us that they would attack Darren Griffin. And it's because  
07:26:38 **7** Darren Griffin carries around a little recording device, and the  
-08:-39:-30 **8** recording device has delivered to you the most devastating  
-08:-39:-30 **9** evidence that there is in this case, and that's the defendant's  
-08:-39:-30 **10** own words.  
07:26:55 **11** Again, on this particular day where this was  
07:26:58 **12** recorded inside of Darren Griffin's house, there's no English  
07:27:03 **13** comprehension problem, and you'll never have a real English  
07:27:07 **14** comprehension problem if you listen to these tapes. What's  
07:27:10 **15** happening is Mohammad Amawi is doing what he has said he was  
07:27:13 **16** going to do, which is learn how to teach others in Arabic, teach  
-08:-39:-30 **17** others how to conduct various different tactics, and one of them  
-08:-39:-30 **18** is shooting. And he actually does that right in front of the  
07:27:26 **19** camera with Wassim Mazloun. And Wassim Mazloun knows what's  
07:27:31 **20** going on. I don't think there's any question he -- if you  
-08:-39:-30 **21** watch this video, you'll see he gets it.  
07:27:38 **22** Also there's a mention of the Astrolite. And  
07:27:42 **23** again, I direct your attention to the fact when they discuss the  
-08:-39:-30 **24** Syrian contact and this other thing, which Wassim Mazloun  
-08:-39:-30 **25** presumably hasn't heard about at all, he seems to know something

-08:-39:-30 **1** about already. And what he says is: We need to stay in

-08:-39:-30 **2** contact with that guy.

07:28:04 **3** Here's a little bit of context again for the notion

-08:-39:-30 **4** that he's training to go to Lebanon. 48-69185-7A.

07:29:05 **5** (Video is played.)

07:29:06 **6** MR. SOFER: Wassim Mazloun is not afraid of people

07:29:10 **7** bothering him in Lebanon. They don't have the same fear they

-08:-39:-30 **8** do here. They can run around and do whatever they want, at

-08:-39:-30 **9** least that's what's implied here. And what's important about

07:29:20 **10** this conversation is what he says is I can get -- "I can collect

-08:-39:-30 **11** a couple guys there." Again, using the training in Lebanon,

-08:-39:-30 **12** his time in Lebanon for jihad, not the other way around.

-08:-39:-30 **13** 4/29 we'll skip to. They go to Cleland's. And I

07:29:44 **14** talked a little bit about the 4/20 shooting and the fact that,

07:29:49 **15** again, they use their real I.D. It was near a police station.

-08:-39:-30 **16** All these things that they said they're afraid of apparently had

07:29:59 **17** evaporated since then.

07:30:00 **18** I submit to you, ladies and gentlemen, like Mr.

07:30:02 **19** Helmick said, so long as they don't talk purpose, so long as

-08:-39:-30 **20** they don't talk tactic, so long as they don't talk at all, which

07:30:09 **21** is what Wassim Mazloun suggests, they're in the clear. The best

07:30:15 **22** example of how ridiculous this argument is is when they have a

-08:-39:-30 **23** discussion in the back of the car. The fact that somebody,

07:30:21 **24** Bilal, Wassim Mazloun's brother, accidentally told Mohammad

07:30:24 **25** Amawi's own brother that they were going shooting. It goes

-08:-39:-30 **1** back to, again, it's not a question of discretion. They are  
07:30:33 **2** very -- in fact, I believe Mohammad Amawi said the whole thing  
-08:-39:-30 **3** is based on security. Not the whole thing is based on VIP  
-08:-39:-30 **4** Security, not the whole thing is based on security guard  
-08:-39:-30 **5** training. It's based on security. Security being we can't  
07:30:46 **6** tell anybody what we're doing. And we certainly can't tell  
-08:-39:-30 **7** anybody what the purpose is. Mohammad Amawi says: You  
07:30:55 **8** shouldn't have told my brother; just tell him we're going  
07:30:58 **9** playing paintball. Again, paintball as a game; paintball for  
-08:-39:-30 **10** fun.  
07:31:03 **11** In one of these conversations that was played by  
-08:-39:-30 **12** Mr. Helmick, Bilal Mazloun is talking about the fact that just  
-08:-39:-30 **13** tell people, just -- if anyone ever asks, just tell them we're  
07:31:14 **14** doing it for fun. These statements every so often, it comes  
-08:-39:-30 **15** from all the defendants at some point. Just like any other  
-08:-39:-30 **16** group of conspiring people would do, they're getting ready their  
-08:-39:-30 **17** defense: What do you say to the outside world? What do you say  
-08:-39:-30 **18** if you get caught? Tell them it's just for fun. We're just  
07:31:31 **19** protecting ourselves. We're not doing this to hurt anyone.  
-08:-39:-30 **20** We're not actually bad people. We're just doing this to protect  
-08:-39:-30 **21** ourselves. We're doing it for fun. Put that in your heart,  
07:31:41 **22** is what I think he says. Put that in your heart. Put that in  
-08:-39:-30 **23** your head. That's the way you'll be able to explain it. In  
-08:-39:-30 **24** fact, that's exactly what Wassim Mazloun does. That's why his  
-08:-39:-30 **25** family and friends come, including his friends that he shares

07:31:55 **1** secrets with, they don't know anything about what he's really  
-08:-39:-30 **2** doing. They don't know anything about ambushes or that other  
07:32:01 **3** stuff. Of course he didn't tell them. He said he was doing  
-08:-39:-30 **4** it just for fun, or for self defense. Either way, it's the  
-08:-39:-30 **5** purpose that's disguised. Actually, I think I played the part  
07:32:17 **6** already that has they were just doing it for fun.  
07:32:26 **7** Let's play 57 69185-11A-2, please. This is the  
-08:-39:-30 **8** conversation I was just referring to.  
07:32:51 **9** (Video is played.)  
07:33:12 **10** MR. SOFER: Again, an Arabic conversation between  
-08:-39:-30 **11** Wassim Mazloun and his brother. No discussion of self-defense  
-08:-39:-30 **12** there. It's blowing up tanks. This was part of the same  
07:33:24 **13** conversation, part of the same conversation that Mr. Helmick  
-08:-39:-30 **14** played for you. If you have any doubts again, I urge you to  
07:33:32 **15** play bigger chunks of these things so you can see the context in  
-08:-39:-30 **16** which these conversations take place. And again, in this same  
07:33:44 **17** conversation, it's Bilal Mazloun; put it in your heart that what  
-08:-39:-30 **18** you're doing is protecting ourselves. We're just doing it for  
-08:-39:-30 **19** fun. And more than one defendant takes that part ultimately .  
-08:-39:-30 **20** Same concept when Wassim Mazloun says on May 2, he  
-08:-39:-30 **21** now hears that Mohammad Amawi thinks he's being followed. And  
07:34:18 **22** what does he say to Darren Griffin? Well, you know, he  
-08:-39:-30 **23** shouldn't be worried; we're not doing anything wrong. It's the  
-08:-39:-30 **24** same concept. They're preparing for the time when somebody  
07:34:31 **25** who's following them knocks on that window, and they need to be

-08:-39:-30 **1** able to have an excuse for this. You hear this over and over  
-08:-39:-30 **2** and over again in the recordings. They are preparing their  
07:34:41 **3** defense. They are preparing the way that they're going to  
-08:-39:-30 **4** explain that they're hiding, that they have hidden their  
-08:-39:-30 **5** purpose, their true purpose.

07:34:52 **6** Mr. Helmick says that Mr. Mazloun went out and  
07:34:56 **7** bought a paintball set, and it was mothballed. It wasn't  
07:35:00 **8** mothballed. I believe, if you take a look at it -- I could be  
-08:-39:-30 **9** wrong about this; I haven't looked at it recently -- it's  
07:35:07 **10** missing a piece. And I believe the piece that it's missing is  
-08:-39:-30 **11** the canister. That may be true for Mohammad Amawi instead of  
07:35:13 **12** Wassim Mazloun. One of them, they're missing the gas canister  
-08:-39:-30 **13** that powers the actual paintballs coming out. You have to take  
-08:-39:-30 **14** that out to get it filled up first before you can go. So one  
-08:-39:-30 **15** or more of them had taken at least that step to get the  
-08:-39:-30 **16** paintball equipment ready to go. Again, paintballing is not a  
-08:-39:-30 **17** crime. Clowning around, shooting each other with little balls  
-08:-39:-30 **18** of paint, it's not a crime. It's the purpose. And Darren  
-08:-39:-30 **19** Griffin talks about the purpose all the time.  
-08:-39:-30 **20** In order to learn tactics, you have to have  
-08:-39:-30 **21** multiple people. And again, there are numerous conversations  
07:35:46 **22** between Wassim Mazloun, Mohammad Amawi, about when you're out  
-08:-39:-30 **23** there, you can just say you're having fun. It's just a game.  
-08:-39:-30 **24** You don't talk about the tactics. Again, it's the purpose  
-08:-39:-30 **25** that's being hidden.

07:36:01 **1** Wassim Mazloun.

07:36:09 **2** I'm going to skip close to the end of the timeline

07:36:13 **3** at least, September 29, 2005. Again, I'm going to ask you to

-08:-39:-30 **4** play 103-69185-2A. A lot has happened by now, but what is it

-08:-39:-30 **5** that Wassim Mazloun is interested in?

07:37:05 **6** (Audio is played.)

07:37:06 **7** MR. SOFER: Again, we went over this the first

-08:-39:-30 **8** time I spoke to you, I think. But Darren doesn't get it.

07:37:14 **9** Darren Griffin, the evil genius, he doesn't get actually what

07:37:17 **10** Wassim Mazloun is talking to him about. He thinks he's talking

-08:-39:-30 **11** about a legitimate car business. It's Wassim that fixes this.

-08:-39:-30 **12** Wassim explains: No, no, no; I'm not looking to move cars; I'm

-08:-39:-30 **13** talking about the mujahidin over in Iraq. And this is now a

-08:-39:-30 **14** long time into this relationship. Again, it shows a

07:37:39 **15** consistent, long-term interest, not in self-defense, but the

07:37:45 **16** mujahidin in Iraq.

07:37:48 **17** And we should not forget who those people are,

-08:-39:-30 **18** ladies and gentlemen. You've seen lots of examples, and it's

07:37:54 **19** easy to forget this as we sit here in this courtroom in Toledo,

07:37:58 **20** Ohio. But these are the people who are killing our troops in

-08:-39:-30 **21** Iraq. And whether you agree with the war in Iraq doesn't

-08:-39:-30 **22** matter, and whether they agree with the war in Iraq doesn't

07:38:09 **23** matter. What matters is that these people were targeting our

07:38:14 **24** men and women in uniform to murder them.

07:38:20 **25** You can end that one.

07:38:25 **1** There was testimony that while in Jordan, Darren  
07:38:30 **2** received a phone call from Wassim Mazloun. It's true, I don't  
-08:-39:-30 **3** believe the phone records, per se, show that. But ask  
-08:-39:-30 **4** yourselves: Why on Earth would he make this up? And if he was  
-08:-39:-30 **5** going to make something up like this, why not, if he's the evil  
07:38:47 **6** genius that he keeps getting referred to as, as the master  
07:38:51 **7** manipulator, the Jedi mind trick pioneer, why did he just say he  
-08:-39:-30 **8** received a phone call? Why didn't he say: I talked to Wassim  
07:39:01 **9** Mazloun; he called from a pay phone; I couldn't tell where the  
-08:-39:-30 **10** number was. When are you guys going to hook up with the  
07:39:08 **11** Mujahidin? I'll ship some weapons to them. He didn't say  
07:39:11 **12** anything like that because it's not true. But what it doesn't  
-08:-39:-30 **13** show you is Darren Griffin editorializing, adding facts, doing  
-08:-39:-30 **14** whatever he can to sort of bring everybody into a conspiracy and  
-08:-39:-30 **15** build some sort of giant case.  
-08:-39:-30 **16** January 30, Darren Griffin showing up again, and  
07:39:30 **17** has a discussion again with Wassim Mazloun, and once again  
07:39:36 **18** Wassim Mazloun is asking about the mujahidin in Iraq.  
07:39:41 **19** Shouldn't be surprising. If he's not interested, if he's so  
-08:-39:-30 **20** interested in this discretion, why does he keep asking these  
-08:-39:-30 **21** questions? And they're very specific, pointed questions about  
-08:-39:-30 **22** the mujahidin in Iraq. Not about Lebanon, not about  
-08:-39:-30 **23** self-defense. Why even ask? It doesn't make any sense. If  
-08:-39:-30 **24** he's not a coconspirator; he hasn't agreed to what was agreed to  
-08:-39:-30 **25** on February 16 and after, what was agreed to on November 17 of



07:40:14 **1** '04 and afterwards, why does he keep asking? There's no answer  
07:40:18 **2** for that question because there is no answer other than that's  
-08:-39:-30 **3** what he agreed to. That's what he's interested in. That's  
07:40:25 **4** what his intent is. It's not reasonable to conclude anything  
-08:-39:-30 **5** else.

07:40:35 **6** Wassim Mazloum could have traveled to the Middle  
-08:-39:-30 **7** East anytime he wanted. Well, you heard him say he couldn't  
-08:-39:-30 **8** travel to the Middle East anytime he wanted because he was in  
07:40:43 **9** the process of trying to become an American citizen, and if he  
07:40:46 **10** spent too much time outside of the country, he might derail that  
-08:-39:-30 **11** opportunity.

-08:-39:-30 **12** Not only that, ladies and gentlemen, but a lot of  
-08:-39:-30 **13** the defense attorneys talked about this. They talked about it  
-08:-39:-30 **14** over and over again. The charge would be different if these  
-08:-39:-30 **15** men had gotten on an airplane or a boat or a combination of  
07:41:04 **16** other transportation, made their way over to Iraq, and fired  
07:41:08 **17** shots, set IEDs, or ambushed our troops. That would be a  
07:41:15 **18** different charge. What they're charged with here is  
-08:-39:-30 **19** conspiring.

-08:-39:-30 **20** And again, as I suggested to you the last time I  
07:41:21 **21** talked to you, there's a reason we have conspiracy statutes.  
-08:-39:-30 **22** That's so we don't have to wait until people go and actually  
-08:-39:-30 **23** fire shots and set IEDs and ambush our troops. That's the  
-08:-39:-30 **24** purpose behind the conspiracy statute.

07:41:39 **25** Now, in Mr. Mazloum's case, Mr. Helmick concedes

-08:-39:-30 **1** that Wassim Mazloum had an agreement to train. And that's a  
-08:-39:-30 **2** huge concession. He did have an agreement to train. Again,  
07:41:55 **3** it's the purpose that you're being asked to consider here.

07:41:58 **4** That's where there's some dispute. And all of the evidence  
-08:-39:-30 **5** together shows you what that purpose is.

07:42:13 **6** Mr. Helmick says that Wassim Mazloum was a working  
-08:-39:-30 **7** guy, and I think the evidence shows that he was working,  
-08:-39:-30 **8** although you'll notice he was more than willing to take a day  
-08:-39:-30 **9** off of work to train with Darren Griffin for Jihad.

07:42:39 **10** If his intent is benign, then everything he did is  
-08:-39:-30 **11** legal, is what Mr. Helmick said. Well, the government submits  
07:42:47 **12** to you, ladies and gentlemen, clearly his intent was not benign,  
07:42:51 **13** and then everything he did was illegal, and it was in  
-08:-39:-30 **14** furtherance of this conspiracy.

07:43:02 **15** And finally, ladies and gentlemen, defense counsel  
-08:-39:-30 **16** said, it's not right -- not the right thing to do to  
-08:-39:-30 **17** cherry-pick. And again, the government agrees with that.  
-08:-39:-30 **18** Please go back and look at all the rest of this evidence. If  
-08:-39:-30 **19** something reasonably supports two conclusions, then you are to  
-08:-39:-30 **20** find a defendant not guilty. But what they are asking you to  
-08:-39:-30 **21** do is not reasonable. And again, that is the key here. It's  
-08:-39:-30 **22** not reasonable; it doesn't make common sense because it's not  
07:43:34 **23** accurate, it's not true. This was not a man training to return  
07:43:38 **24** to Lebanon. The evidence does not support that.

07:43:43 **25** Let me turn my attention now to Mr. Hartman's

-08:-39:-30 **1** summation on behalf of Marwan El-Hindi.

07:43:49 **2** Judge, I don't know, when did you want to take a

-08:-39:-30 **3** break? I could take one now, or I could take one later.

-08:-39:-30 **4** THE COURT: It's up to you.

07:44:02 **5** MR. SOFER: Five minutes now would be fine.

07:44:11 **6** (Recess taken.)

-08:-39:-30 **7** (Whereupon the following discussion was had at the

-08:-39:-30 **8** bench outside the hearing of the jury:)

-08:-39:-30 **9** MR. BRYAN: Just briefly I just want to note for

-08:-39:-30 **10** the record that Mr. Sofer's rebuttal to Mr. Mazloun's case went

-08:-39:-30 **11** almost an hour. And I don't know how long he's going to take

-08:-39:-30 **12** to finish his rebuttal argument, but I want to put on the record

-08:-39:-30 **13** that we acknowledge that Your Honor gave us unlimited time for

-08:-39:-30 **14** closing argument, but there is sort of a proportionality notion

-08:-39:-30 **15** that should be in fair play here. The government took nine

-08:-39:-30 **16** hours in their closing -- in their opening close. The defense

-08:-39:-30 **17** collectively took about eight hours on all three defendants.

-08:-39:-30 **18** Now the government has already spent one hour in rebuttal.

-08:-39:-30 **19** That was of an argument that only lasted --

-08:-39:-30 **20** THE COURT: Well, we're going to stay here until it

-08:-39:-30 **21** gets done.

-08:-39:-30 **22** MR. BRYAN: I would object if he's going to spend

-08:-39:-30 **23** that amount of time.

-08:-39:-30 **24** THE COURT: I can't change the rules in midstream.

-08:-39:-30 **25** MR. SOFER: I'm sorry it's taking long.

-08:-39:-30 **1** (End of side-bar discussion.)

07:58:03 **2** (Jury in.)

07:58:08 **3** THE COURT: You may continue.

07:58:10 **4** MR. SOFER: Ladies and gentlemen, before you go

07:58:12 **5** back and deliberate on Wassim Mazloun, I just ask you again to

-08:-39:-30 **6** focus your attention on one particular recorded conversation.

-08:-39:-30 **7** And again, the government wants you to consider all the

07:58:29 **8** evidence, but here's something that you can focus your attention

-08:-39:-30 **9** on. This is very fast. It's a minute long. It's

07:58:37 **10** 57-69185-11A-3.

08:00:16 **11** (Video is played.)

08:00:24 **12** MR. SOFER: Now let's turn to Marwan El-Hindi and

08:00:28 **13** Mr. Hartman's summation. This was a longer summation. They

-08:-39:-30 **14** get increasingly longer. I'm going to try to increase my pace

-08:-39:-30 **15** so that we're not here until too late into the evening. I want

-08:-39:-30 **16** to start with this notion that Mr. Hartman, probably more than

08:00:49 **17** the other defense attorneys, has attacked Darren Griffin. And

08:00:53 **18** as I have said to you before, Darren Griffin is by far not a

08:00:57 **19** perfect person, and the government is not submitting that he is

-08:-39:-30 **20** not without some significant faults. But, ladies and

-08:-39:-30 **21** gentlemen, you don't have to trust Darren Griffin in this case,

08:01:10 **22** even though the evidence may suggest that you should. What you

08:01:14 **23** can trust is the recordings he made. And no matter how many

-08:-39:-30 **24** times Mr. Hartman says it, no matter whether he screams it or

08:01:24 **25** whispers it, the fact of the matter is the evidence shows that

08:01:28 **1** Darren Griffin was not capable of making these guys say what  
-08:-39:-30 **2** they said. Not over the hours and hours, days and days, and  
08:01:40 **3** months and months of his interaction. He's not smart enough,  
-08:-39:-30 **4** and nobody has those kinds of skills. And as I said before, he  
-08:-39:-30 **5** is not capable of using the Jedi mind trick. These men said  
-08:-39:-30 **6** what they said on their own, and that's what the evidence shows.  
-08:-39:-30 **7** All of the evidence.  
-08:-39:-30 **8** Not only that, but there are numerous occasions, I  
08:02:07 **9** won't go into them all now, when Darren Griffin is the one who  
-08:-39:-30 **10** interrupts a defendant to say something that ultimately is  
-08:-39:-30 **11** helpful or has been helpful to one of the defense attorneys'  
08:02:18 **12** arguments. There's a number of examples of that. One of the  
-08:-39:-30 **13** prime ones actually occurs with Marwan El-Hindi when Marwan  
-08:-39:-30 **14** El-Hindi is talking about Zubair and Khaleel and saying  
08:02:28 **15** something about them, and Darren Griffin says, Oh, for -- he's  
-08:-39:-30 **16** the one who says, You're protecting them; or, You're doing  
-08:-39:-30 **17** something for them, for their families. He said that. And  
08:02:39 **18** again, if you use your common sense and your reason, that  
08:02:43 **19** completely undermines everything he said about Darren Griffin's  
08:02:47 **20** ability to manipulate every conversation, get these guys to say  
-08:-39:-30 **21** only incriminating things, trick them into saying nasty things.  
08:02:57 **22** That's just not what the evidence shows. As I said, Darren  
-08:-39:-30 **23** Griffin isn't that bright, and he doesn't have some sort of  
08:03:04 **24** extrasensory skill in order to do that.  
-08:-39:-30 **25** He has to attack Darren Griffin, absolutely has to

-08:-39:-30 **1** attack Darren Griffin because if he doesn't, and you actually  
-08:-39:-30 **2** listen to these recordings, and that's all you listen to for all  
-08:-39:-30 **3** of these defendants, and you pay attention to what the testimony  
08:03:23 **4** shows, then you'll find them all guilty of every charge. So of  
08:03:28 **5** course they're looking to make this a case about Darren Griffin.  
-08:-39:-30 **6** And there's plenty to say about Darren Griffin. The government  
08:03:36 **7** doesn't dispute that. But it doesn't make him the liar that  
-08:-39:-30 **8** he's been made out to be, and it doesn't make him capable of  
-08:-39:-30 **9** doing the very thing that they have to rely upon for you to  
-08:-39:-30 **10** question those recordings.  
08:03:53 **11** He talked about there's been a lot of talk about  
-08:-39:-30 **12** this, that the government here has raised the spectre of  
08:04:01 **13** terrorism so that you are afraid, or that there's some sort of  
-08:-39:-30 **14** anti-Muslim bias. And that also, ladies and gentlemen, that is  
08:04:07 **15** not what this evidence shows. The government does not want you  
-08:-39:-30 **16** to use prejudice or fear in any way in your deliberations.  
08:04:16 **17** We're asking you to focus on the evidence. He wants you to be  
-08:-39:-30 **18** afraid of this big government that somehow is a threat to the  
08:04:26 **19** American way. And that's not what this is, ladies and  
-08:-39:-30 **20** gentlemen. The tapes don't support that; the witnesses that  
-08:-39:-30 **21** have come in here don't support this. The testimony of the FBI  
08:04:37 **22** agents that you heard does not support that. Government wants  
-08:-39:-30 **23** you to decide this case on the evidence. All of the evidence,  
-08:-39:-30 **24** only the evidence; not fear, not prejudice, and not sympathy.  
08:04:51 **25** He talked about the fact that there were names

08:04:54 **1** mentioned like the scary names, scary Arabic names I assume is  
-08:-39:-30 **2** what he was talking about: Abu Masada Al Zarqawi and Auyman Al  
08:05:05 **3** Zawahiri and Osama Bin Laden. You've learned who those people  
-08:-39:-30 **4** are. Those are in some ways the top three leaders of Al-Qaeda.  
-08:-39:-30 **5** One of them is dead now. We didn't introduce this, ladies and  
-08:-39:-30 **6** gentlemen, to scare you. But, of course, it makes a difference  
08:05:24 **7** when these men empathize, sympathize, look up to, look for  
-08:-39:-30 **8** guidance from these individuals. Why is that? It shows you  
-08:-39:-30 **9** what's in their heart, and it shows you what's in their minds.  
-08:-39:-30 **10** Yes, you can get information from CNN, but that's  
08:05:43 **11** not where a lot of the information in this case came from.  
08:05:46 **12** There's a difference. There's a difference from getting  
08:05:51 **13** information from CNN, Al-Jazeera, and getting it from Al-Qaeda,  
08:05:57 **14** which is who produced some of these videos, or getting it from  
-08:-39:-30 **15** the websites that have the number one and number two leaders of  
08:06:06 **16** Al-Qaeda. Again, not to scare you or make you think those guys  
-08:-39:-30 **17** are bad, so these guys are bad. That's not what we're asking  
-08:-39:-30 **18** you, ladies and gentlemen. Don't decide the case on that.  
08:06:15 **19** Decide it because it shows you what is in their hearts and their  
08:06:19 **20** minds.  
08:06:20 **21** There's a lot of talk about Muslim bias, and you  
08:06:32 **22** heard about a number -- it's offensive in some ways to all of  
-08:-39:-30 **23** those other Muslims to think that somehow every Muslim must  
-08:-39:-30 **24** think, feel, and act the way that these men did. In fact, you  
-08:-39:-30 **25** know that that's not true because you saw multiple examples of

-08:-39:-30 **1** other people who walked away, ran away, blacklisted these men,  
-08:-39:-30 **2** and they were from the Muslim community.

08:07:04 **3** The case is not about -- remember I asked you to

-08:-39:-30 **4** consider three questions before listening to these summations.

-08:-39:-30 **5** One of them is what this case is not about. It's not about

08:07:14 **6** 9/11. It's not about the War on Terror. It's about what

-08:-39:-30 **7** these men did in this case with this evidence.

08:07:25 **8** Mr. Hartman said that this was a cut and paste job.

-08:-39:-30 **9** I'd suggest to you, ladies and gentlemen, that the only party

-08:-39:-30 **10** here that has played large swaths of tapes for you is the United

-08:-39:-30 **11** States government. And you've heard hours and hours and heard

-08:-39:-30 **12** me run my mouth on for hours and hours about what those tapes

08:07:47 **13** show. The notion we've somehow cherry-picked for nine hours,

08:07:53 **14** the submission clips, is nothing short of ridiculous.

08:07:57 **15** Now, you want to talk about a clip job? The

-08:-39:-30 **16** picture of the empty couch that Mr. Hartman showed you, that's

-08:-39:-30 **17** about the worst clip job you could ever have. He stops that

08:08:10 **18** tape, and there it is, the empty couch. Well, you know that

-08:-39:-30 **19** couch wasn't empty, and it wasn't empty for some of the most

-08:-39:-30 **20** important parts of the conversation on that day.

08:08:22 **21** And let's just quickly play M29-69185-1D-C. I'll

-08:-39:-30 **22** stop this relatively shortly, but you'll see the couch is not

-08:-39:-30 **23** empty, and it's not empty for what amounts to be the clearest,

08:08:37 **24** most ambiguous statement of what's going on in this case.

08:08:41 **25** (Video is played.)



08:08:48 **1** MR. SOFER: There's the empty couch. But it's  
-08:-39:-30 **2** not empty, ladies and gentlemen. There's also discussion that  
-08:-39:-30 **3** Marwan El-Hindi, he's trying to live the American dream, and  
-08:-39:-30 **4** he's trying to raise his children the best he can. I suggest  
-08:-39:-30 **5** to you this picture shows that neither of those things is true.  
08:09:19 **6** His American dream is a nightmare, ladies and gentlemen. And  
-08:-39:-30 **7** this is no way to raise children.  
08:09:35 **8** (Video is played.)  
-08:-39:-30 **9** MR. SOFER: We can stop it now. If you have any  
08:09:40 **10** question about what was said, please play it again.  
08:09:43 **11** Mr. Hartman said on June 23, 2004, that Marwan  
08:09:52 **12** El-Hindi called Darren Griffin out of the blue, or that I had  
08:09:56 **13** argued that Marwan El-Hindi had called out of the blue.  
08:10:01 **14** Frankly, I don't remember what I said, but the important part is  
-08:-39:-30 **15** not whether he called him out of the blue or not. He may have  
-08:-39:-30 **16** called him out of the blue; he may not. He may have known -- he  
-08:-39:-30 **17** may have been returning 46 calls from Darren Griffin. That's  
-08:-39:-30 **18** not what matters. What matters is that out of the blue Marwan  
08:10:20 **19** El-Hindi mentions two people that need training and that have a  
-08:-39:-30 **20** lot of energy. Again, if you have any questions about that,  
-08:-39:-30 **21** play that whole recording again, or ask to have it played. That  
-08:-39:-30 **22** is mentioned out of the blue. It's Marwan that brings it up.  
-08:-39:-30 **23** That's not the only time Marwan El-Hindi mentions  
-08:-39:-30 **24** things out of the blue. He mentions snipers out of the blue.  
-08:-39:-30 **25** He mentions a number of things out of the blue, things that he's

08:10:44 **1** doing on his own, at least inside his head. It's not Darren  
-08:-39:-30 **2** Griffin somehow sending brain waves to him to somehow get him to  
-08:-39:-30 **3** say certain things.  
08:10:56 **4** A lot of discussion about how different Marwan  
08:10:59 **5** El-Hindi is from the rest of us. Marwan El-Hindi is no  
08:11:02 **6** different than any of us. The fact that he has a long beard  
08:11:05 **7** doesn't make him different than any of us. The fact that he  
-08:-39:-30 **8** has darker skin doesn't make him different than any of us.  
-08:-39:-30 **9** He's a lot like us. He's a United States citizen. He's been  
-08:-39:-30 **10** living in this country for almost two decades. There's nothing  
-08:-39:-30 **11** foreign and strange that you have to understand with the Google  
08:11:20 **12** maps and the geopolitical lessons to decide this case. You  
-08:-39:-30 **13** already have the common sense and reason from your own life  
-08:-39:-30 **14** experiences to be able to decide whether these men broke the  
08:11:30 **15** law. Don't replace your common sense with some different  
08:11:37 **16** perspective that's spoon fed to you by the defense attorneys.  
08:11:53 **17** If it weren't for Darren Griffin, none of this  
-08:-39:-30 **18** would have happened. Not true. Not accurate. Marwan  
-08:-39:-30 **19** El-Hindi had already met Zubair and Khaleel. He called Darren  
08:12:06 **20** Griffin, but he could have called somebody else. And we should  
-08:-39:-30 **21** be happy he did call Darren Griffin and not somebody else. And  
-08:-39:-30 **22** perhaps more importantly than that, ladies and gentlemen, it is  
08:12:22 **23** not a defense in this case that Darren Griffin brought people  
-08:-39:-30 **24** together. Now, you can look through the Judge's charge.  
08:12:33 **25** There's no defense in there listed for bringing these people

08:12:36 **1** together. Yes, they have to have intent; yes, they have to  
-08:-39:-30 **2** voluntarily have entered into an agreement. But the fact that  
-08:-39:-30 **3** someone else, even a government agent, brought them together  
08:12:47 **4** it's not a defense. And it's not a dirty or underhanded thing  
-08:-39:-30 **5** that the government did here. The government does this; police  
-08:-39:-30 **6** do this all the time. Law enforcement do this all the time.  
-08:-39:-30 **7** It's part of what the police and law enforcement do. They  
-08:-39:-30 **8** don't make people do things. Darren Griffin never made any of  
-08:-39:-30 **9** these men do anything. They were enthusiastic; they  
08:13:10 **10** volunteered to do these things. But it's a perfectly  
08:13:15 **11** legitimate thing that Darren Griffin was doing. And your  
-08:-39:-30 **12** verdict should not be "I like that" or "I don't like that".  
-08:-39:-30 **13** That's not what this is about.  
-08:-39:-30 **14** The question is: Did they violate these laws?  
08:13:29 **15** The government submits you should like it; what he was doing was  
08:13:33 **16** looking for threat, and he found some. But even if you don't  
-08:-39:-30 **17** like it, that's not what you're being asked to decide here.  
08:13:42 **18** Mr. Hartman would like you to decide the case based on things  
08:13:45 **19** like that that are not part of the actual statutes. But you're  
-08:-39:-30 **20** being asked to apply the facts to the law as the Judge has read  
-08:-39:-30 **21** it to you. And you won't see anything in the law about whether  
08:13:57 **22** or not Darren Griffin could have brought people together. I'll  
-08:-39:-30 **23** submit to you he didn't bring all these people together, but  
08:14:03 **24** even if he had, there's nothing unseemly about that.  
08:14:14 **25** Mr. Hartman said it was an unexpected drop by

-08:-39:-30 **1** Mohammad Amawi's house on February 2 with Marwan El-Hindi. And  
08:14:27 **2** I guess he ended up there at Mohammad Amawi's house unbeknownst  
-08:-39:-30 **3** to him. He walks in; he hears talk about drinking blood,  
08:14:39 **4** martyrdom. And does he say: Get me out of here? No. He  
08:14:43 **5** invites Mohammad Amawi over to his house. And what does he say  
-08:-39:-30 **6** when he first walks in? He says something in Arabic about, do  
-08:-39:-30 **7** they have the one? They go right to the computer. Do they have  
-08:-39:-30 **8** the ones on manufacturing? He's talking about the bomb vest  
-08:-39:-30 **9** video or some other video or instructional material that talks  
-08:-39:-30 **10** about making bombs. That's because Marwan El-Hindi, before any  
-08:-39:-30 **11** meeting with Mohammad Amawi, already knows this stuff. And you  
08:15:10 **12** know that also from the computer evidence in the case. If you  
08:15:13 **13** have any questions about that, you can ask for that evidence  
08:15:16 **14** also. He was doing things independently of Darren Griffin.  
-08:-39:-30 **15** Darren Griffin, again, was not moving Marwan  
-08:-39:-30 **16** El-Hindi around like a pawn. Marwan El-Hindi had free will.  
-08:-39:-30 **17** He was doing what he wanted. And some of those things included  
08:15:32 **18** looking on the internet for materials to make bombs. And  
-08:-39:-30 **19** Mohammad Amawi says in this meeting, Marwan El-Hindi's going to  
-08:-39:-30 **20** be joining us. And again, right there, ladies and gentlemen,  
08:15:45 **21** you have the agreement. You have a willful joining of an  
-08:-39:-30 **22** agreement. It gets a lot clearer later on, but it's pretty  
-08:-39:-30 **23** clear on that day. If you have any questions, please ask to see  
-08:-39:-30 **24** that or listen to that recording again, too.  
08:16:12 **25** He says it was Darren Griffin's idea to form a

-08:-39:-30 **1** cell. Again, I say to you, ladies and gentlemen, at any time  
-08:-39:-30 **2** Marwan El-Hindi could have walked away from this and taken  
08:16:21 **3** himself out of this cell.  
08:16:25 **4** Darren Griffin brought up explosions and explosives  
08:16:30 **5** to Zubair and Khaleel, not the other way around; he was fishing.  
08:16:34 **6** Well, how about sniping, countersurveillance, running with a .50  
-08:-39:-30 **7** caliber machine gun. Darren Griffin didn't bring those things  
08:16:47 **8** up with Zubair and Khaleel. They did. It shouldn't surprise  
08:16:50 **9** you. They had just come home from a trip to try to kill our  
-08:-39:-30 **10** troops. This is what they wanted to do. These are the people  
08:16:56 **11** Marwan El-Hindi brought to a man who he knew could train them in  
08:16:59 **12** military tactics, including U.S. military tactics.  
08:17:05 **13** Call it fishing. It's another way of saying he  
-08:-39:-30 **14** was looking for threats. That's what he testified he did, the  
-08:-39:-30 **15** FBI told you he was doing. It's what you would want people  
-08:-39:-30 **16** doing. It's what you would want the FBI to be doing. We  
-08:-39:-30 **17** talked about this notion that Darren Griffin was off on his own  
-08:-39:-30 **18** doing things. The FBI had pretty tight control over Darren  
-08:-39:-30 **19** Griffin. He was regularly showing up with these tapes and  
-08:-39:-30 **20** giving them to the FBI. He's not some guy going off halfcocked  
08:17:37 **21** as a rogue agent. He's looking for threats. He's looking for  
-08:-39:-30 **22** threats for the FBI; not for himself, but for the FBI.  
08:17:50 **23** Why should Marwan El-Hindi run away? It's not his  
08:17:54 **24** responsibility. Just sitting there does not mean that he  
-08:-39:-30 **25** agreed. I agree with all of that. It's not his

08:18:00 **1** responsibility to walk away. But he didn't. And again, what  
-08:-39:-30 **2** does that tell you? It tells you what is in his heart and in  
-08:-39:-30 **3** his mind. And then he does things. He doesn't just talk; he  
-08:-39:-30 **4** does things. He gives things to Darren Griffin. He sends  
08:18:18 **5** things to Darren Griffin. He invites people to his house. He  
08:18:22 **6** provides them with a meeting place for this. He does things.  
-08:-39:-30 **7** He goes and looks for grants. He meets again with Mohammad  
-08:-39:-30 **8** Amawi. He does things.  
08:18:42 **9** Both Mr. Helmick and Mr. Hartman talked about the  
08:18:48 **10** instruction on conspiracy. I'd just ask you to read that  
-08:-39:-30 **11** instruction carefully. They cherry-picked a piece of it, and  
08:18:54 **12** you should read the rest of it. If we have some time -- I  
-08:-39:-30 **13** doubt we will -- I'll try to go through it.  
-08:-39:-30 **14** He said Marwan El-Hindi was not interested in  
08:19:07 **15** shooting. Not consistent with the evidence. If you listen to  
-08:-39:-30 **16** those tapes, he talks about interested in shooting. He talks  
-08:-39:-30 **17** about his wife being interested in shooting. He expresses a  
-08:-39:-30 **18** number of times where he's interested in shooting. He's also  
-08:-39:-30 **19** interested in explosives. He's also interested in how thick  
-08:-39:-30 **20** the armor is in a tank. He's interested in those things.  
-08:-39:-30 **21** That's not an accurate statement.  
08:19:31 **22** Marwan El-Hindi got interested in land for farming  
-08:-39:-30 **23** and livestock; he had sheep in his house.  
08:19:36 **24** Let's play 26-69185-3A-1.  
08:19:57 **25** (Audio is played.)

08:21:44 **1** MR. SOFER: Again, what this shows, ladies and  
-08:-39:-30 **2** gentlemen, is the plan is connected to Marwan El-Hindi's  
-08:-39:-30 **3** thoughts about snipers. He's now talking about how snipers  
-08:-39:-30 **4** shoot; they run around in circles, go somewhere else and shoot.  
-08:-39:-30 **5** You look at the videos they were watching. This is consistent  
-08:-39:-30 **6** with what the mujahidin are doing in Iraq.

08:22:08 **7** Ambiguity in training. Ladies and gentlemen, the  
-08:-39:-30 **8** government submits there's no ambiguity about this training.  
08:22:16 **9** It's made very clear over and over again that there are two  
08:22:19 **10** different kinds of training. There's the training you hide the  
-08:-39:-30 **11** jihad training in, then there's the jihad training. And let's  
08:22:26 **12** play SM-69440-4A-1. And Marwan El-Hindi gets it. In fact, he  
08:22:39 **13** understands because those are the exact words he uses.

08:22:39 **14** (Audio is played.)  
08:22:44 **15** SM-2-69440-4 A-1.

08:23:57 **16** MR. SOFER: I'm trying to skip ahead for speed  
-08:-39:-30 **17** here.

08:24:02 **18** (Audio is played.)  
08:24:53 **19** MR. SOFER: Again it's very clear what kind of  
-08:-39:-30 **20** training we're talking about. "I understand that's true."  
08:24:59 **21** Marwan El-Hindi gets it. He's not been tricked. This is not  
08:25:04 **22** camouflage; this is not something he doesn't understand. It's  
-08:-39:-30 **23** been made abundantly clear to him.

-08:-39:-30 **24** Let's go to February 16. Marwan El-Hindi didn't  
-08:-39:-30 **25** know what this meeting was going to be about. He thought his

08:25:16 **1** computer was going to get fixed. Well, he set out an awfully  
-08:-39:-30 **2** big meal for fixing a computer. And the government would also  
08:25:26 **3** submit to you, ladies and gentlemen, when they did go, after  
08:25:29 **4** they were finished planning, agreeing, conspiring, they go into  
-08:-39:-30 **5** that other room; they go sit on the computer. It didn't need  
08:25:39 **6** any fixing; it worked. You know it worked because you can hear  
-08:-39:-30 **7** them playing the ambush attack on there and talking about how  
08:25:47 **8** they're doing it.

08:25:50 **9** Darren Griffin was right in the middle because he  
-08:-39:-30 **10** made it happen, is what Mr. Hartman said. Darren Griffin could  
-08:-39:-30 **11** never have made this happen without the voluntary participation  
08:26:03 **12** and actions of these defendants. As I've said over and over  
-08:-39:-30 **13** again, all any one of them had to do was say, I'm out of here,  
-08:-39:-30 **14** and it was done.

08:26:21 **15** Marwan El-Hindi stopped these boys from going to  
08:26:24 **16** violent jihad against U.S. forces, referring to Zubair and  
-08:-39:-30 **17** Khaleel. They're not boys. They're not boys. They're men.  
-08:-39:-30 **18** They're men who just left the country to go kill other men,  
-08:-39:-30 **19** probably many of whom were younger than they are. Some of  
-08:-39:-30 **20** those individuals might be mere boys. And what does Marwan  
-08:-39:-30 **21** El-Hindi do with these two people? He turns them over to  
-08:-39:-30 **22** Darren Griffin, who he believes can train them correctly.

08:26:54 **23** Marwan El-Hindi heard enough. He knew what they  
08:26:57 **24** wanted from Darren Griffin, and he knew what Darren Griffin  
-08:-39:-30 **25** would give them. That's a big concession from Mr. Hartman



-08:-39:-30 **1** because that's exactly what the government says. He knew what  
-08:-39:-30 **2** they were about, and he knew what Darren Griffin was going to  
08:27:14 **3** give them.

08:27:15 **4** Nothing happened. You've heard that several times  
-08:-39:-30 **5** from Mr. Hartman. He started this case that way. Made a  
08:27:23 **6** number of representations at the beginning of the case: The  
08:27:26 **7** evidence didn't ever prove...

08:27:31 **8** Conspiracy does not require that they complete the  
08:27:34 **9** crime. That's not what you're being asked to consider.

08:27:42 **10** Darren Griffin never saw Zubair and Khaleel again,  
08:27:49 **11** and the reason is Marwan El-Hindi. Marwan El-Hindi told Darren  
-08:-39:-30 **12** Griffin that he would get them, but never did. And this is  
08:28:02 **13** beginning to sound a little bit like Mohammad Amawi's defense  
-08:-39:-30 **14** that he was just faking it, except that you have a conversation  
-08:-39:-30 **15** here. And I'll explain when we get to Mohammad Amawi how that  
-08:-39:-30 **16** argument doesn't fly either. But we have a conversation here  
08:28:17 **17** where Marwan's trying awfully hard to get Khaleel to come back  
-08:-39:-30 **18** to Toledo for training.

-08:-39:-30 **19** We can play that real quick. It's  
-08:-39:-30 **20** SM-90-66747-10A-1.

08:29:23 **21** (Audio is played.)

08:32:06 **22** MR. SOFER: Again, remember it was Darren Griffin  
-08:-39:-30 **23** who injected the line when he was talking to Marwan El-Hindi; he  
-08:-39:-30 **24** said, And you're trying to help them for your families. Well,  
-08:-39:-30 **25** you can tell that it was Darren Griffin's line because here's

08:32:18 **1** Marwan El-Hindi trying to help these boys for their family,  
08:32:24 **2** telling Khaleel that Zubair's father is full of you know what.  
08:32:29 **3** Let's keep moving. The point is Marwan El-Hindi is  
08:32:39 **4** trying; he's trying to get Khaleel. Eventually they never show  
-08:-39:-30 **5** up. Maybe that nasty word inside of Khaleel's phone or  
-08:-39:-30 **6** Zubair's phone that refers to Marwan El-Hindi explains it; they  
-08:-39:-30 **7** didn't have a whole lot of respect for Marwan El-Hindi, and  
-08:-39:-30 **8** maybe that's why they didn't show up. We don't know. I'm not  
-08:-39:-30 **9** asking you to speculate on that. Maybe.  
-08:-39:-30 **10** But the bottom line is Marwan El-Hindi tried to get  
08:33:04 **11** them here, and he brought them to Darren Griffin for one reason  
08:33:08 **12** and one reason only. He was trying to help them or their  
08:33:13 **13** families? Their families didn't think so. You have the  
08:33:16 **14** recording -- we don't have the time -- where Marwan talks about  
08:33:19 **15** the fact that, in fact, the family of Zubair thinks that he's  
08:33:25 **16** dangerous. And he didn't pull that out of thin air either.  
-08:-39:-30 **17** The government submits the evidence is there to show why  
08:33:32 **18** Zubair's family thought Marwan El-Hindi was dangerous. If he  
-08:-39:-30 **19** had just rescued their son from going on jihad, why would they  
-08:-39:-30 **20** ever say that?  
08:33:44 **21** Over and over you've heard Mr. Hartman focus on two  
08:33:51 **22** conversations; two out of many, many conversations. The  
08:33:54 **23** government submits to you that neither of these conversations  
08:33:57 **24** presents reasonable doubt in this case in any way, shape or  
-08:-39:-30 **25** form. This first one where he says where Darren Griffin asks:

-08:-39:-30 **1** Are you recruiting for jihad? Marwan El-Hindi says: I'm just  
08:34:10 **2** trying to take care of them. And he says, then Darren Griffin  
08:34:16 **3** inserts that line, "For their families." Then Marwan El-Hindi  
-08:-39:-30 **4** says: "For now." And again, this goes along -- you've got to  
-08:-39:-30 **5** look at all the evidence to really truly perceive this and  
-08:-39:-30 **6** understand it, but Zubair and Khaleel talk about a five-year  
-08:-39:-30 **7** plan; they were rescued from the fields of jihad supposedly by  
08:34:36 **8** Marwan El-Hindi. It's the same concept that runs throughout  
-08:-39:-30 **9** the case: Don't go there, become an extra mouth to feed, get  
08:34:44 **10** yourself blown up for no good reason. Get the training.  
-08:-39:-30 **11** They're getting training. Ultimately they know where they want  
-08:-39:-30 **12** to go. They say it very clearly.  
08:35:01 **13** The second one that Mr. Hartman continues to refer  
08:35:04 **14** to, I won't play it for you again. This notion of tell them  
-08:-39:-30 **15** you're not going to train them for jihad. Tell them you're  
-08:-39:-30 **16** going to train them, but not for jihad. And you have to look  
-08:-39:-30 **17** at the context of that conversation to understand what it is.  
08:35:19 **18** It's Marwan El-Hindi protecting Darren Griffin. And he says,  
08:35:22 **19** "Blah, blah, blah." This is the "blah, blah, blah"  
08:35:24 **20** conversation. If you look at the conversation in context,  
-08:-39:-30 **21** you'll see what it means. It is not reasonable to have a doubt  
08:35:34 **22** based on that conversation at all. And you have to put it in  
-08:-39:-30 **23** context of all the other conversations and actions in the case.  
08:35:48 **24** How many times do you have to say no? Marwan  
08:36:06 **25** El-Hindi never said no. Not once. Never. I sat there and

08:36:13 **1** listened to Mr. Hartman's remarks. He didn't even cite one  
08:36:18 **2** scenario where Marwan El-Hindi said no. And as the government  
-08:-39:-30 **3** said over and over again, he didn't have to say no, just not  
-08:-39:-30 **4** pick up the phone. Again, Darren Griffin didn't make these men  
-08:-39:-30 **5** do anything.

08:36:42 **6** I'm going to skip over some things because we're  
-08:-39:-30 **7** running very late, and I apologize, ladies and gentlemen.

08:37:00 **8** Marwan El-Hindi never gave a nickel to the  
-08:-39:-30 **9** training. He certainly tried. He traveled to another state  
08:37:08 **10** to visit Jihad Dahabi. He tried to set up a corporation; the  
08:37:14 **11** corporation was going to get government grants. I think it's  
-08:-39:-30 **12** pretty clear from the evidence, take a look at that list of  
-08:-39:-30 **13** grants that they were looking at. We played in summation some  
-08:-39:-30 **14** of the radically different kinds of grants they were looking  
-08:-39:-30 **15** for. They were looking to raid the U.S. government grants to  
08:37:32 **16** divert money. This ESFS grant that happened in 2001, way before  
-08:-39:-30 **17** the conspiracy, not really relevant except it does tell you one  
08:37:44 **18** thing; it tells you Marwan El-Hindi knows how to get grants, and  
08:37:47 **19** it tells you that money was misappropriated once.

08:37:59 **20** Marwan El-Hindi was trying to do some good, but he  
-08:-39:-30 **21** was still looking to pay himself. That's a very charitable  
08:38:09 **22** description of what was going on here, ladies and gentlemen.  
-08:-39:-30 **23** The government submits if you look at the evidence, all of the  
-08:-39:-30 **24** evidence, you'll also find that's a very charitable description  
-08:-39:-30 **25** of what was going on here. Never talked about using this money

-08:-39:-30 **1** for terrorism? Sure, he did. On February 16, that  
-08:-39:-30 **2** conversation happened in context. It wasn't suddenly, oh,  
08:38:33 **3** grants for fixing something or doing something good. It was in  
-08:-39:-30 **4** the context of the jihad training, what they had just agreed to  
-08:-39:-30 **5** do. That's when they have the conversation about grants you  
-08:-39:-30 **6** can grab onto. That's what Marwan El-Hindi says. He's an  
-08:-39:-30 **7** expert on the grants that other people can grab onto.  
08:38:53 **8** The context of that conversation makes it clear.  
-08:-39:-30 **9** We're not asking you to cherry-pick. We're asking you to look  
-08:-39:-30 **10** at everything.  
08:39:12 **11** And of course there's follow-up. The notion that  
08:39:16 **12** there's no follow-up after February 16, February 16 was  
08:39:20 **13** follow-up. February 16 was follow-up on February 2. And  
08:39:25 **14** there were multiple meetings afterwards. And they did go to  
08:39:30 **15** see the accountant. The fact that he trashed the paperwork  
08:39:33 **16** because after spending two hours with these guys, he knew they  
08:39:38 **17** were bad news, doesn't mean that he wasn't trying. He  
-08:-39:-30 **18** certainly was trying.  
08:39:46 **19** Also he printed out, that is Marwan El-Hindi  
-08:-39:-30 **20** printed out all of this grant information for Darren Griffin.  
-08:-39:-30 **21** It's information you can now look at. The reason we have it is  
-08:-39:-30 **22** because Darren Griffin got it from Marwan El-Hindi who printed  
-08:-39:-30 **23** it out days before it was actually given to him. Again, acting  
-08:-39:-30 **24** on his own when Darren Griffin wasn't even around. And again,  
-08:-39:-30 **25** I point to the computer evidence. This man was working by

08:40:11 **1** himself and doing things consistent with this conspiracy when  
-08:-39:-30 **2** Darren Griffin wasn't even around.

08:40:35 **3** Darren Griffin was kept around for business  
08:40:37 **4** purposes? That didn't work out very well, did it? Why keep  
-08:-39:-30 **5** Darren Griffin around for just business? He's risky, given  
08:40:47 **6** everything that he's saying, all of his extreme views. There  
-08:-39:-30 **7** had to be other people out there who could have helped Marwan  
-08:-39:-30 **8** El-Hindi. He didn't keep him around for business purposes.  
-08:-39:-30 **9** He kept him around because he had a unique set of skills, and it  
-08:-39:-30 **10** wasn't business; it was military training.

08:41:08 **11** Those unique skills and a proper mindset combined  
-08:-39:-30 **12** gave Marwan El-Hindi what he needed and what the other  
08:41:16 **13** defendants in this case needed.

08:41:18 **14** Arab men love to talk about politics. So does  
-08:-39:-30 **15** everybody else. This is not -- again, these are human beings.  
08:41:30 **16** We're all human beings. The fact that you come from one end of  
-08:-39:-30 **17** the world or another, there may be some minor differences, but  
08:41:37 **18** everybody talks about politics. This wasn't politics. This  
08:41:40 **19** was about murder. This was about ambushes. This was about  
-08:-39:-30 **20** IEDs. This was about training for jihad, not politics.

08:41:52 **21** It's not a cultural issue either. You heard about  
08:41:56 **22** Mikaeil Al-Mozrouei and others from the Mosque, how they got  
-08:-39:-30 **23** away from this stuff after only a little bit of it. Imagine the  
08:42:07 **24** volume of material these men looked at, the amount of time that  
08:42:10 **25** they spent together. It's not a cultural thing to talk about

-08:-39:-30 **1** killing American troops. That's an offense to the rest of the  
-08:-39:-30 **2** people that share that culture.

08:42:22 **3** The disturbing part is that it's real, and Marwan  
-08:-39:-30 **4** El-Hindi had an interest in seeing what's going on. And again,  
08:42:32 **5** listen to the tapes. Not just an interest. He celebrated it.  
-08:-39:-30 **6** It tells you what's in his mind. Again, it's the purpose, the  
-08:-39:-30 **7** intent, the willfulness of entering into an agreement.

08:42:46 **8** Some of these attacks they looked at are old.  
08:42:51 **9** Some of these attacks are one and two years old. There's no  
-08:-39:-30 **10** news value in that. How many IED attacks do you need to  
08:42:58 **11** actually see to understand what's going on and to show other  
-08:-39:-30 **12** people what's going on? The government submits you don't,  
-08:-39:-30 **13** certainly not that kind of volume of material. What about the  
08:43:13 **14** bomb vest video? What's the news flash there? There's no  
08:43:17 **15** news there. How about the black powder video? No news, no  
08:43:23 **16** culture, no politics. Those are things that have nothing to do  
-08:-39:-30 **17** with this case, just like those videos have nothing to do with  
-08:-39:-30 **18** those issues. I submit to you some of that CNN footage you saw  
-08:-39:-30 **19** is probably used as propaganda material to make our troops look  
-08:-39:-30 **20** bad, but even if it's true, it doesn't matter. Most of what  
08:43:44 **21** they looked at did not come from CNN; it came from Al-Qaeda.  
-08:-39:-30 **22** It came from the Islamic Army of Iraq. It came from  
08:43:52 **23** organizations like that. That's what they were interested in  
-08:-39:-30 **24** looking at.

08:43:56 **25** What's not there? No gun, no bomb, no plan, no

-08:-39:-30 **1** target. Again, ladies and gentlemen, the charges in this case  
-08:-39:-30 **2** don't require that kind of specificity, and they don't require  
-08:-39:-30 **3** that the defendants have gotten that far towards their goal.  
-08:-39:-30 **4** That's not one of the elements you'll see, that they had to make  
08:44:15 **5** it 80 percent, they were 20 percent there. They had to commit  
-08:-39:-30 **6** one overt act for one of the conspiracies in furtherance of the  
08:44:23 **7** conspiracy. They didn't even have to commit one overt act.  
08:44:26 **8** Look at the elements of these charges. They're there for a  
08:44:29 **9** reason: To prevent an attack, not to wait until people get  
-08:-39:-30 **10** close to one.

08:44:41 **11** I talked a little bit about the follow-up.  
-08:-39:-30 **12** There's lots of follow-up. I recommend that you please take a  
-08:-39:-30 **13** look at all the evidence that shows the follow-up of Marwan  
-08:-39:-30 **14** El-Hindi.

08:44:54 **15** Marwan El-Hindi expressed no interest in bombs or  
08:44:57 **16** shooting? We talked about that. He actually several times  
08:45:00 **17** suggested his interest in sniping; again, the thickness of tank  
-08:-39:-30 **18** armor.

08:45:05 **19** How about the ratios; there's that one conversation  
-08:-39:-30 **20** in Arabic where Mohammad Amawi and Marwan El-Hindi are talking  
-08:-39:-30 **21** to each other. They said, Does he know -- talking about Darren  
-08:-39:-30 **22** Griffin -- does he know the ratios? And Marwan El-Hindi says:  
-08:-39:-30 **23** Yes, he does. That's interest. And he's the one that knew  
-08:-39:-30 **24** about the manufacturing videos before he ever walked in that  
-08:-39:-30 **25** room on February 2.



08:45:33 **1** Darren Griffin brings these things up every time;  
-08:-39:-30 **2** everything that Marwan El-Hindi says is in response to Darren  
08:45:43 **3** Griffin? Not Jihad Dahabi, not the sniping, not the IED e-mail,  
08:45:48 **4** not Zubair and Khaleel, not the manufacturing videos, not the  
08:45:51 **5** ratios for explosives.

08:45:54 **6** Marwan El-Hindi never said anything of the  
-08:-39:-30 **7** agreement? Well, look at 2/16, look at the Arabic conversation  
-08:-39:-30 **8** they have together, and look at the facts and circumstances of  
-08:-39:-30 **9** the rest of the evidence, ladies and gentlemen. Remember the  
-08:-39:-30 **10** charge that the Judge gave you says they don't have to speak  
08:46:11 **11** these words. It can be a spoken or unspoken agreement. This  
-08:-39:-30 **12** was a spoken agreement, largely, but it doesn't have to be. You  
-08:-39:-30 **13** can look at their actions and to other things in the case to  
-08:-39:-30 **14** find that agreement.

08:46:25 **15** The first time Marwan El-Hindi brought Zubair and  
-08:-39:-30 **16** Khaleel up, he laughed. Listen to the rest of that call and  
-08:-39:-30 **17** listen to the other conversations in which Marwan El-Hindi  
-08:-39:-30 **18** laughs. He also laughs at the deaths of U.S. soldiers. I  
08:46:44 **19** submit to you this is not an indication that he thought this was  
-08:-39:-30 **20** some sort of joke.

-08:-39:-30 **21** I am not going to go through the computer evidence,  
-08:-39:-30 **22** mercifully, but if you have any questions about what was on  
08:46:59 **23** Marwan El-Hindi's computer and when, please ask to take a look  
-08:-39:-30 **24** at that evidence and read back the testimony if necessary.

08:47:13 **25** No intent for Darren Griffin to use that stuff,

08:47:17 **1** meaning the IED e-mail and the bomb vest video, to kill U.S.  
-08:-39:-30 **2** soldiers? There's no proof of that? Again, look at the context  
-08:-39:-30 **3** of this whole case, ladies and gentlemen, and look at what's  
08:47:29 **4** inside of those videos. Internally they mean something.  
-08:-39:-30 **5** These are videos which themselves indicate what they are for.  
08:47:36 **6** They are for killing people. And the IED e-mail actually says  
-08:-39:-30 **7** it flat out what it's for. And keep in mind that the intent  
-08:-39:-30 **8** you're being asked to look at is not Darren Griffin's intent;  
-08:-39:-30 **9** it's the intent of Marwan El-Hindi when he gave those things to  
-08:-39:-30 **10** Darren Griffin.  
08:48:08 **11** Darren Griffin is no puppet master, ladies and  
08:48:12 **12** gentlemen. Again, Marwan El-Hindi could have at any moment  
-08:-39:-30 **13** walked away from him. He had no strings attached to him from  
08:48:22 **14** Darren Griffin. When it came time for the IED e-mail, it was  
-08:-39:-30 **15** Marwan El-Hindi who said: This is the one that shows you how to  
-08:-39:-30 **16** make it.  
08:48:39 **17** Talks about news in the mujahidin on February 8.  
-08:-39:-30 **18** The news of the mujahidin is people killing U.S. soldiers.  
-08:-39:-30 **19** That's what the news is. That's the news we're talking about  
-08:-39:-30 **20** here.  
08:48:58 **21** Again, Mr. Hartman said, I'm not trying to downplay  
-08:-39:-30 **22** what's on the video. You can't downplay what's on the video.  
-08:-39:-30 **23** It shows the ultimate device being placed next to human beings.  
08:49:10 **24** They're not real human beings, but they're not trying to blast  
-08:-39:-30 **25** the door open; they're talking about killing people.

-08:-39:-30 **1** The IED e-mail, where does it come from? It comes  
-08:-39:-30 **2** from Mr. El-Hindi's bulk mail. His mail comes from the Islamic  
08:49:26 **3** Army of Iraq. You have the definition, too, of what that is;  
-08:-39:-30 **4** it's a terrorist group, and they kill U.S. soldiers. And  
-08:-39:-30 **5** Marwan El-Hindi is on their mailing list. Do you want to know  
-08:-39:-30 **6** what's in his mind? That's one thing that indicates that.

08:49:40 **7** No intent to further the crime of violence? Well,  
08:49:47 **8** ladies and gentlemen, what was the purpose of all their  
-08:-39:-30 **9** training? Again, these charges go hand-in-hand. They prove  
-08:-39:-30 **10** each other. Conspiracy helps prove the distribution counts.  
-08:-39:-30 **11** The distribution counts help prove the conspiracy counts.

08:50:05 **12** Mikaeil Al-Mozrouei. Of course Mr. Hartman wants  
-08:-39:-30 **13** you to be skeptical of him. If you think about it, it's  
-08:-39:-30 **14** amazing that even one person would come in here and explain that  
08:50:16 **15** Marwan El-Hindi had come up to them and said, Would you like to  
-08:-39:-30 **16** go to Afghanistan for training? And he did mention it late in  
-08:-39:-30 **17** the game, but that's because that's when he was asked about it.  
08:50:27 **18** That's when he was asked about Marwan El-Hindi. And ask  
08:50:33 **19** yourselves why on earth would this man make this up? He has  
08:50:39 **20** zero motive to do that. Zero.

08:50:48 **21** Mikaeil Al-Mozrouei's condition that he's bipolar,  
-08:-39:-30 **22** has ADHD, there's no evidence that that played a role at all.  
08:50:56 **23** He doesn't want you to consider any of this testimony. Mikaeil  
08:51:03 **24** Al-Mozrouei, if he had some beef against Marwan El-Hindi, he was  
08:51:07 **25** trying to make the government's case, he was trying to do

08:51:09 **1** something good, he would have never said he didn't think Marwan  
-08:-39:-30 **2** El-Hindi was serious. What he actually said was he didn't  
-08:-39:-30 **3** think Marwan El-Hindi really had the resources to do this. But  
08:51:18 **4** again, if he was looking to make up some grand, great story, why  
08:51:22 **5** would he say that? It doesn't make sense. It doesn't have  
-08:-39:-30 **6** the ring of truth to it because if he said something else,  
-08:-39:-30 **7** something that was much more incriminating, perhaps then you'd  
-08:-39:-30 **8** question it. But no, he doesn't do it.  
08:51:41 **9** Marwan El-Hindi's lies to the FBI. I can't go  
-08:-39:-30 **10** through them. We don't have time. There's many lies he told.  
-08:-39:-30 **11** He forgot Mohammad Amawi's last name. Yes, it is hard to  
-08:-39:-30 **12** remember some e-mail accounts sometimes, but it's -- I suggest  
-08:-39:-30 **13** to you, ladies and gentlemen, it's no coincidence that he  
-08:-39:-30 **14** remembered two out of three, and the third one that he doesn't  
08:52:02 **15** remember happens to be the one that the IED e-mail came from.  
-08:-39:-30 **16** These are not coincidences. Go back and look at all those  
08:52:10 **17** lies. Go back and read the testimony or your notes about what  
08:52:14 **18** Agent Chuck Holloway said. It's a laundry list of clear lies.  
-08:-39:-30 **19** And you decide what that means. Ask yourselves  
-08:-39:-30 **20** what that means. Was he afraid? Well, he talked about a lot  
-08:-39:-30 **21** of things. He wasn't afraid enough to say, I don't want to  
-08:-39:-30 **22** talk to you; or, I'm not going to tell you about this, that, or  
-08:-39:-30 **23** the other thing. He talked. Talked for a while. He must  
-08:-39:-30 **24** have talked for a while. It took him all that time to get out  
-08:-39:-30 **25** all those lies.

08:52:48 **1** Jihad Dahabi lied to the FBI; there's no question  
-08:-39:-30 **2** about Marwan El-Hindi had an even greater reason. Jihad Dahabi  
08:52:59 **3** is thinking these guys may be up to no good. I think he  
-08:-39:-30 **4** brought up the word "terrorism." He was also worried about his  
-08:-39:-30 **5** immigration status.  
-08:-39:-30 **6** Mr. Hartman talks a lot about, oh there's a bunch  
-08:-39:-30 **7** of stuff on the computer; I don't care about it. You should  
08:53:28 **8** care about it. They didn't want you to look at that computer.  
-08:-39:-30 **9** It's complicated. There are little tiny pieces of evidence,  
-08:-39:-30 **10** but they show something incredibly important. That is Marwan  
-08:-39:-30 **11** El-Hindi was doing things outside of Darren Griffin's knowledge  
-08:-39:-30 **12** and outside of Darren Griffin's presence, and they are  
08:53:44 **13** consistent with the government's evidence in this case and the  
08:53:47 **14** allegations.  
08:53:54 **15** He's acting independently of Darren Griffin. He  
-08:-39:-30 **16** went through the "understand" line, that is when Marwan El-Hindi  
-08:-39:-30 **17** made it clear that he understood what the two kinds of training  
08:54:07 **18** are. The phone chart; we're not asking you to speculate what  
08:54:17 **19** the nature of those calls were, per se. We're asking you just  
-08:-39:-30 **20** to consider it as part of all the evidence in the case. And  
08:54:24 **21** it's these lawyers that said there were no contacts, very few  
-08:-39:-30 **22** contacts, but there are other contacts. That's all it's being  
-08:-39:-30 **23** shown for. They said there are no contacts. There were a lot  
-08:-39:-30 **24** of other contacts. In some cases almost 100 contacts. That's  
-08:-39:-30 **25** all we're asking you to consider them for. We are not asking

-08:-39:-30 **1** you to consider on one day one particular person said something.  
-08:-39:-30 **2** They spoke to each other, much like you would think a group of  
08:54:54 **3** coconspirators would.  
08:54:55 **4** "The government hasn't proven anything beyond a  
-08:-39:-30 **5** reasonable doubt." Ladies and gentlemen, that is simply not  
08:55:00 **6** true. We've proven each of the elements against each of these  
-08:-39:-30 **7** defendants beyond a reasonable doubt with all of the evidence  
08:55:13 **8** when you consider all of the evidence.  
08:55:18 **9** If Marwan El-Hindi is guilty of anything, it's  
-08:-39:-30 **10** being too naive to realize he could get in trouble. Well, go  
-08:-39:-30 **11** back again and listen to these recordings. He is constantly  
08:55:29 **12** talking about how he's being watched big time, how we could get  
-08:-39:-30 **13** in trouble. How his wife told him to take the bomb vest video  
-08:-39:-30 **14** off the computer. This is not a one-time thing. Marwan  
08:55:42 **15** El-Hindi is not naive at all. It's quite the opposite. He's  
-08:-39:-30 **16** concerned about and is constantly looking for ways to make sure  
-08:-39:-30 **17** he doesn't get in trouble.  
08:55:55 **18** Again, there's a long tirade against Darren  
08:56:00 **19** Griffin. And I'm not going to sit here, ladies and gentlemen,  
08:56:02 **20** and defend everything about Darren Griffin. The government  
08:56:05 **21** submits you can decide about his credibility based on the things  
-08:-39:-30 **22** that you learned in this case that are not connected to Darren  
-08:-39:-30 **23** Griffin, including the tapes which he could not -- there was no  
-08:-39:-30 **24** evidence, zero evidence that Darren Griffin ever turned these  
08:56:22 **25** tapes on and off in a way to manipulate some kind of

08:56:27 **1** conversation. Zero evidence. He can't tell when these guys  
-08:-39:-30 **2** are going to say what they're going to say. Nobody could.  
-08:-39:-30 **3** You don't hear that thing suddenly cut out in the middle of a  
08:56:38 **4** conversation. And that goes on for a very long period of time;  
-08:-39:-30 **5** for months, hours and hours and hours. He is not some  
08:56:46 **6** audiovisual mix master. The devices he had, he didn't  
08:56:50 **7** necessarily know how to work them completely. He knew certain  
08:56:53 **8** things about them; how to turn them on and off. There is zero  
-08:-39:-30 **9** evidence he turned these devices on or off to manipulate the  
-08:-39:-30 **10** evidence. Zero. They'd like you to think that. Again, they  
08:57:04 **11** have to attack these tapes. And the best way to attack the  
08:57:07 **12** tape is through Darren Griffin.  
08:57:10 **13** "The government submits a number of things that are  
08:57:14 **14** a lie, a big lie." When Steve Hartman got up here and gave his  
08:57:19 **15** opening statement, and he said he lied to the government, he  
08:57:22 **16** lied on April 20 when he said he didn't call. Just think about  
08:57:28 **17** this for a second. The day Darren Griffin had that  
08:57:31 **18** conversation on the phone with Marwan El-Hindi, and then later  
-08:-39:-30 **19** on they went training and Marwan El-Hindi didn't show up. And  
-08:-39:-30 **20** that's the day he turns over two recordings to the FBI; the  
08:57:42 **21** call, and then the interaction that related to the Cleland's  
08:57:48 **22** shooting range. He's not lying to the FBI. He's giving them  
-08:-39:-30 **23** the evidence. He's giving them exactly -- and it's not like he  
-08:-39:-30 **24** deep-sixed the call to Marwan El-Hindi. They have it.  
-08:-39:-30 **25** The reason he'd get up here and make these

-08:-39:-30 **1** arguments is because Darren Griffin gave it to the FBI. The  
-08:-39:-30 **2** FBI gave them to the United States Attorney's Office, and the  
-08:-39:-30 **3** United States Attorney's Office gave it to them. And a lot of  
-08:-39:-30 **4** the other lies out there, if you look carefully behind them,  
08:58:16 **5** ladies and gentlemen, the government submits are not quite what  
08:58:19 **6** they've been made out to be, but I'll let you decide that. I'm  
-08:-39:-30 **7** not going to sit here and go through each one of them.  
08:58:27 **8** This notion that Marwan El-Hindi had a guest in his  
08:58:31 **9** house and told an off-color joke, and that's why he sat there on  
08:58:35 **10** February 16. This was no off-color joke. This was  
08:58:38 **11** something -- and they talked about this; this is stuff that  
-08:-39:-30 **12** could take them away from their kids, the very kids who he let  
-08:-39:-30 **13** sit in that room while that stuff was happening. It is nothing  
-08:-39:-30 **14** like having someone come into your living room and tell an  
-08:-39:-30 **15** off-color joke. Nothing like that.  
08:59:16 **16** The conversation with Bill Radcliffe, Agent  
08:59:19 **17** Radcliffe, and Darren Griffin. He says: Well, I'll do the  
-08:-39:-30 **18** greater good thing. I'll get them back together. Again, this  
-08:-39:-30 **19** has been made out to be some dirty, horrible thing. What's  
-08:-39:-30 **20** wrong with that? If Marwan El-Hindi didn't want to get back  
08:59:40 **21** together and talk with Mohammad Amawi, he just wouldn't. The  
-08:-39:-30 **22** greater good thing was jihad; the greater good thing is let's  
-08:-39:-30 **23** not fight about wives, let's fight the Americans. Now they  
-08:-39:-30 **24** signed up to get back together after that. That's not Darren  
08:59:57 **25** Griffin. And again, Darren Griffin didn't make them do that.



-08:-39:-30 **1** You know from the evidence that they are ready, already had in  
-08:-39:-30 **2** their hearts to do that anyway.

09:00:10 **3** And, by the way, Marwan El-Hindi didn't go -- after  
09:00:19 **4** all that, Marwan El-Hindi didn't go shooting. And what does  
-08:-39:-30 **5** that tell you? He has free will. If Darren Griffin was again  
-08:-39:-30 **6** performing the Jedi mind trick, making him do things he didn't  
-08:-39:-30 **7** want to do, then I guess he would have shown up for shooting on  
-08:-39:-30 **8** April 20 and April 29. He didn't because he has free will,  
09:00:38 **9** just like all the rest of these defendants do.

09:00:42 **10** This is not how we're supposed to be doing things,  
-08:-39:-30 **11** says Mr. Hartman. It's not the American way. I suggest to  
09:00:49 **12** you, ladies and gentlemen, this is exactly how we should be  
-08:-39:-30 **13** doing things, and it's exactly what you want your government to  
09:01:00 **14** do.

-08:-39:-30 **15** "It's wrong." It's not wrong what the government  
09:01:04 **16** did here. It's what he wants you to focus on, what the  
-08:-39:-30 **17** government did. What you should be focused on is what these men  
-08:-39:-30 **18** did. If you're focused on what the government does, what  
-08:-39:-30 **19** Darren Griffin does, then you won't focus on the actual evidence  
-08:-39:-30 **20** in the case, which is what the defendants did, said, and how  
-08:-39:-30 **21** they acted.

09:01:23 **22** His dream was to be a citizen, the American way.

09:01:28 **23** Well, ladies and gentlemen, he celebrates the death of our  
09:01:31 **24** troops. He wants to kill U.S. soldiers. He helps Darren

09:01:35 **25** Griffin to do what Darren Griffin wants to do, which is clearly

09:01:37 **1** to train jihadists, to train overseas, including to fight the  
09:01:41 **2** United States military. That's not the American dream.  
09:01:49 **3** Words and actions. Actions speak louder than  
-08:-39:-30 **4** words. Certainly true. There were a lot of actions here:  
-08:-39:-30 **5** Forwarding of these e-mails, inviting people to the house,  
-08:-39:-30 **6** meetings. These are actions.  
09:02:09 **7** No soldiers were killed. Thank goodness for that.  
-08:-39:-30 **8** Again, it's a conspiracy statute, ladies and gentlemen; it's not  
-08:-39:-30 **9** a murder statute. We'd be sitting here trying another case, if  
-08:-39:-30 **10** at all, if that had taken place.  
09:02:27 **11** Truth, justice, and the American way. I'm  
09:02:32 **12** certainly not Superman, and I'm not going to try to quote him,  
-08:-39:-30 **13** but the reasons that Mr. Hartman quotes that to you are just  
-08:-39:-30 **14** flat-out wrong, ladies and gentlemen.  
-08:-39:-30 **15** "Darren Griffin lied so much to the FBI they had no  
-08:-39:-30 **16** idea what he was doing." That is not consistent with the  
09:02:53 **17** evidence. You heard Agent Coats testify; you heard Agent  
-08:-39:-30 **18** Radcliffe testify. Agent Radcliffe didn't remember very much.  
09:02:59 **19** Agent Coats did remember a lot. The bottom line is they knew  
09:03:03 **20** exactly what Darren Griffin was doing, and they were controlling  
09:03:05 **21** his actions for the most part.  
09:03:12 **22** I'm almost done with this one. And again, I  
-08:-39:-30 **23** apologize to Your Honor and to the jury and everybody else, but  
09:03:21 **24** we have a lot of evidence to get through here.  
09:03:24 **25** "Standing between Darren Griffin and his conduct

-08:-39:-30 **1** and Marwan El-Hindi getting people connected" -- I'm sorry, I  
-08:-39:-30 **2** can't even read it -- "getting convicted, is you." You're  
09:03:39 **3** standing between Darren Griffin and his conduct. Ladies and  
09:03:46 **4** gentlemen, again, this is a distraction. The case is not about  
09:03:49 **5** Darren Griffin and his conduct; it's about the defendants'  
09:03:52 **6** conduct.  
09:03:54 **7** Let me leave you with two important points. They  
09:03:58 **8** apply to Marwan El-Hindi. Even if you find that Marwan  
09:04:02 **9** El-Hindi never conspired with Zubair and Khaleel Ahmed, the  
-08:-39:-30 **10** evidence establishes beyond a reasonable doubt that Marwan  
09:04:09 **11** El-Hindi is guilty of the crimes that he is charged with. If  
09:04:13 **12** you just started in February of '05 and ended in April of '05,  
-08:-39:-30 **13** this crime has been completed. Arguably it was completed on  
-08:-39:-30 **14** February 2 or February 16, but you have a lot more than that.  
09:04:27 **15** So you don't have to go back and find that he conspired with  
09:04:30 **16** Zubair and Khaleel, although the government submits the evidence  
-08:-39:-30 **17** shows that, in fact, he did. But you don't have to do that.  
09:04:38 **18** Also, if all Marwan El-Hindi did was help Mohammad  
-08:-39:-30 **19** Amawi to get the training he needed to get overseas, then he's  
-08:-39:-30 **20** guilty of this conspiracy -- these conspiracies. Remember that  
-08:-39:-30 **21** Darren Griffin said to Marwan El-Hindi that he was having  
-08:-39:-30 **22** trouble getting that bomb vest video to Mohammad Amawi, that  
-08:-39:-30 **23** Mohammad Amawi wanted to go overseas and fight in Iraq. And  
09:05:03 **24** Darren Griffin assisted in that -- I'm sorry, Marwan El-Hindi  
-08:-39:-30 **25** assisted in that.

09:05:10 **1** And, ladies and gentlemen, the conspiracy charge,  
-08:-39:-30 **2** if you read all of it, it talks about you can play a minor role  
-08:-39:-30 **3** in a conspiracy to be guilty of it. You don't have to do  
-08:-39:-30 **4** everything. He didn't have to train. So if that's all the  
-08:-39:-30 **5** evidence showed -- and it's not, ladies and gentlemen; the  
-08:-39:-30 **6** government submits there's much more than that. But if all he  
-08:-39:-30 **7** did was help Mohammad Amawi in his quest to go kill American  
09:05:35 **8** soldiers, then he'd be guilty of these two conspiracies as well.

09:05:42 **9** MR. SOFER: Judge, that's all I have for this one.  
-08:-39:-30 **10** We can take a short break, or I can keep going.

-08:-39:-30 **11** THE COURT: Why don't you keep going.

09:05:57 **12** MR. SOFER: I'm sorry. I know you're tired of  
09:06:05 **13** hearing me, and actually, so am I.

09:06:08 **14** Remember I asked you to consider three questions  
-08:-39:-30 **15** for these defense attorneys' summations. First, how much of  
-08:-39:-30 **16** what the defense attorneys talked about and what they were  
09:06:17 **17** asking you to do was irrelevant or had to do with things that  
-08:-39:-30 **18** are simply not evidence in the case? Two, how many of their  
09:06:26 **19** arguments were reasonable in light of all of the evidence, to  
09:06:30 **20** use your common sense, or were they essentially cherry-picking?  
-08:-39:-30 **21** And, three, did the argument make any sense when you read the  
-08:-39:-30 **22** law and when you took the facts that you have, applied them to  
-08:-39:-30 **23** the law, or vice versa?

09:06:45 **24** How much of what Mr. Bryan said was simply not  
-08:-39:-30 **25** relevant? I'm going to go through a list. It's not the only

09:06:54 **1** list. Hopefully you picked up on a lot of this as well. Red  
-08:-39:-30 **2** shoes of the Pope, King Solomon, the law in England of three  
-08:-39:-30 **3** possible verdicts, the priesthood, Japanese internment camps,  
-08:-39:-30 **4** the World War II service of our veterans, the Revolutionary war  
-08:-39:-30 **5** and culture, proctological exams, Joe Montana and Jerry Rice,  
-08:-39:-30 **6** transubstantiation, September 11, Revolutionary War soldiers.  
09:07:24 **7** The government submits to you, ladies and gentlemen, none of  
-08:-39:-30 **8** that has anything to do with this case whatsoever.  
09:07:32 **9** Do not be distracted by these things. Focus,  
09:07:36 **10** please, on the evidence.  
09:07:38 **11** Then he talked about a bunch of things that there  
-08:-39:-30 **12** is no evidence of whatsoever in this case. Please recall the  
-08:-39:-30 **13** Judge's instruction not to speculate about matters that are not  
-08:-39:-30 **14** in evidence. That's very hard to do, but it's one of maybe the  
-08:-39:-30 **15** most difficult jobs as jurors. I'll bet you each one of you  
-08:-39:-30 **16** has a hundred questions about things that you didn't hear about  
-08:-39:-30 **17** in this case. But you're not to speculate about that. Let me  
-08:-39:-30 **18** go through some of the things that there was no evidence of.  
09:08:10 **19** Mohammad Amawi saw SCUD missiles flying over his  
09:08:13 **20** house in Jordan during the first Gulf War. There's no evidence  
-08:-39:-30 **21** that this satellite phone bill in the case displayed the current  
-08:-39:-30 **22** outstanding bill or that Mohammad Amawi believed for a second  
-08:-39:-30 **23** that the bill was more than what Darren Griffin had told him: A  
09:08:26 **24** flat fee per month. There's no evidence whether the phone  
09:08:30 **25** calls that Mohammad Amawi and others made using that phone were

09:08:33 **1** or were not made to terrorists. There's no evidence that  
-08:-39:-30 **2** Mohammad Amawi showed jihad videos to just about anyone, as Mr.  
-08:-39:-30 **3** Bryan indicated. There's no evidence that Darren Griffin  
09:08:45 **4** turned the recording devices on or off to manipulate the  
09:08:49 **5** conversations; I mentioned that. There's no evidence that  
09:08:51 **6** Mohammad Amawi ever said: I only say these things because I was  
09:08:54 **7** upset; I don't really mean it. There's no evidence that the FBI  
09:08:58 **8** targeted the other people that went shooting with Darren  
-08:-39:-30 **9** Griffin. In fact, there's no evidence those people were  
09:09:04 **10** prosecuted, arrested. No evidence regarding what, if anything,  
-08:-39:-30 **11** Mohammad Amawi said to his local Congressperson about the FBI or  
09:09:12 **12** this case. There's no evidence that the bank that had his  
-08:-39:-30 **13** wallet made no attempts to get Mohammad Amawi his wallet back.  
-08:-39:-30 **14** The evidence shows, in fact, the wallet remained unclaimed at  
-08:-39:-30 **15** the same bank for about a year. There's no evidence Ashraf  
09:09:27 **16** Zaim ever told Mohammad Amawi anything about his suspicions  
09:09:31 **17** regarding Darren Griffin. There's no evidence that Zubair and  
09:09:33 **18** Khaleel Ahmed were simply sitting around in their hotel room in  
09:09:36 **19** Egypt when Marwan El-Hindi showed up.  
09:09:41 **20** Mr. Bryan said one of the pictures that were showed  
-08:-39:-30 **21** looked to him like Mohammad Amawi had been crying in one of  
09:09:47 **22** those pictures. There's no evidence of that either. There  
-08:-39:-30 **23** was evidence that Mohammad Amawi was searched and that he was  
-08:-39:-30 **24** given a change of clothes. Again, use your common sense. The  
09:09:57 **25** FBI's transporting a person back to the United States who's been

09:10:00 **1** charged with terrorism. So you know he's talked about

09:10:03 **2** martyring himself; you know he's talked about killing United

-08:-39:-30 **3** States soldiers. Of course they did a good job searching him,

-08:-39:-30 **4** and of course they did a good job securing him for the trip.

-08:-39:-30 **5** There's no evidence whatsoever the FBI thought for

09:10:16 **6** one single solitary second that Mohammad Amawi was playing them

09:10:21 **7** or Darren Griffin at any time in this entire investigation.

-08:-39:-30 **8** There's no evidence that the FBI conducted an

09:10:29 **9** investigation because of anti-Muslim bias or the FBI was

-08:-39:-30 **10** searching for the terrorist bogeyman. Importantly, there is no

-08:-39:-30 **11** evidence of what else the FBI might have done or did do in this

-08:-39:-30 **12** case that didn't come out here in court or other things that may

-08:-39:-30 **13** or may not have happened during this investigation that you did

09:10:52 **14** not hear or see evidence in this courtroom about.

09:10:55 **15** Finally, there's no evidence that Darren Griffin

09:10:57 **16** needed this investigation to continue in order to keep getting

09:11:00 **17** paid by the FBI. In fact, the credible reliable evidence shows

09:11:04 **18** that it was the fact that these defendants were apprehended,

-08:-39:-30 **19** that Darren Griffin's name was splashed across the newspapers,

-08:-39:-30 **20** that ended his ability to continue working as a human source for

-08:-39:-30 **21** the FBI. Remember that up to and including the end of this

09:11:19 **22** investigation, Darren Griffin was working on other matters.

09:11:22 **23** Everything I just talked about is either completely

09:11:26 **24** irrelevant or there is zero evidence of. And that was a big

-08:-39:-30 **25** part of what Mr. Bryan said to you. Mr. Bryan asked you to

-08:-39:-30 **1** consider all of these things that are not relevant and are not  
-08:-39:-30 **2** evidence, and then he turns around and calls the actual evidence  
-08:-39:-30 **3** that's been admitted "stuff" or "information."

09:11:45 **4** First, that's not accurate. It's not stuff or  
09:11:48 **5** information. It is evidence. And it was introduced in this  
-08:-39:-30 **6** courtroom under the Constitutional and evidentiary protections  
-08:-39:-30 **7** that are inside of our Constitution and our laws that Mr. Bryan  
-08:-39:-30 **8** referred to in all of his remarks about the United States and  
09:12:07 **9** the protections our country affords to people's liberty. He  
-08:-39:-30 **10** also called it a mountain of stuff. That's another way of  
09:12:16 **11** saying there's a mountain of evidence. He doesn't want you to  
-08:-39:-30 **12** concentrate on the actual evidence in this case because, again,  
-08:-39:-30 **13** if you remain focused on that evidence, you will find that it  
-08:-39:-30 **14** proves all three of these defendants guilty beyond a reasonable  
-08:-39:-30 **15** doubt.

09:12:29 **16** Mr. Bryan talked to you a lot about the law in his  
-08:-39:-30 **17** summation. I caution you, as I did with my remarks about the  
-08:-39:-30 **18** law, that it's the Judge's instructions on the law; it's his  
09:12:42 **19** instruction on the law that is the accurate statement of what  
-08:-39:-30 **20** the law is. Please read it and follow it, especially as it  
09:12:49 **21** applies to reasonable doubt and the presumption of innocence.

-08:-39:-30 **22** Mr. Bryan talked about the need for a level of  
-08:-39:-30 **23** certainty in making particular determinations in this case when  
-08:-39:-30 **24** you go back and deliberate. I want to quote you a portion of  
-08:-39:-30 **25** the Judge's charge that he didn't read.



-08:-39:-30 **1** Proof beyond a reasonable doubt does not mean proof  
-08:-39:-30 **2** to an absolute certainty or all possible doubt. Possible  
-08:-39:-30 **3** doubts based only on speculation are not reasonable doubts.  
09:13:18 **4** Mr. Bryan talked about also only part of the  
09:13:21 **5** presumption of innocence. The part he left out states this:  
09:13:25 **6** Presumption of innocence stays with each defendant  
09:13:27 **7** unless and until the government presents evidence here in court  
-08:-39:-30 **8** that overcomes the presumption and convinces you beyond a  
09:13:34 **9** reasonable doubt that the defendants are guilty.  
09:13:38 **10** Now, the government submits to you there are a  
09:13:41 **11** number of the other arguments made to you by Mr. Bryan that were  
09:13:44 **12** completely inappropriate and completely irrelevant. I'm not  
09:13:48 **13** going to dignify these arguments with a response. I do,  
-08:-39:-30 **14** however, want to and need to address Mr. Bryan's suggestion that  
-08:-39:-30 **15** Mohammad Amawi had some sort of excuse for committing these  
09:13:59 **16** crimes. He set out for you a laundry list of U S. Military  
09:14:04 **17** atrocities in Iraq, and he talked to you about the first Gulf  
09:14:07 **18** War also. He also showed you one video from the many videos  
-08:-39:-30 **19** that the government introduced, and he discussed others, and  
-08:-39:-30 **20** that video showed a lot of horrible nasty things. To the  
09:14:18 **21** extent that any of the propaganda videos that he has vouched for  
-08:-39:-30 **22** contain any truth -- and I told you before, if you look at some  
-08:-39:-30 **23** of those videos, you'll see that they've spliced footage in a  
-08:-39:-30 **24** certain way -- these videos do not provide an excuse for  
09:14:35 **25** breaking the law in the United States. There's nothing in the

-08:-39:-30 **1** government's charge --

09:14:42 **2** MR. BRYAN: Objection, Your Honor. He's

09:14:44 **3** misstating the argument, Your Honor.

09:14:47 **4** THE COURT: The jury will recall the argument and

-08:-39:-30 **5** will understand that at this stage Mr. Sofer is permitted simply

-08:-39:-30 **6** to rebut argument made by counsel. You may continue.

09:15:00 **7** MR. SOFER: Thank you, Judge.

-08:-39:-30 **8** -- nothing in the Judge's charge about an excuse,

09:15:04 **9** because there is none. What the videos show and what the

-08:-39:-30 **10** recordings also demonstrate is that Mohammad Amawi was furious

09:15:11 **11** and upset at the loss of Muslim life, land, and property in Iraq

-08:-39:-30 **12** and elsewhere. And what it shows is that he was motivated by

09:15:21 **13** these videos to commit these crimes. And you can hear that in

09:15:25 **14** the recordings. He sought out this information and regularly

-08:-39:-30 **15** referred to U.S. behavior in Iraq as the reason he and others

-08:-39:-30 **16** need to wake up and fight. His discussions about what was

-08:-39:-30 **17** happening in Iraq are actually particularly important and

-08:-39:-30 **18** illuminating. Mohammad Amawi and the other defendants often

-08:-39:-30 **19** talk about the Ummah, which is defined in your list of

-08:-39:-30 **20** definitions. The Ummah is defined as the term, the collective

09:15:51 **21** Muslim community throughout the world. This is what he is

09:15:56 **22** looking to defend. And I put the word "defend" in quotes.

09:15:59 **23** When he talks about defense, the government submits that he and

-08:-39:-30 **24** the other defendants are talking about defending Muslim lands

09:16:05 **25** from the likes of the United States military. This is made

-08:-39:-30 **1** clear over and over in the recorded conversations. And even in  
-08:-39:-30 **2** some of the videos you hear the same ideology being expressed.  
09:16:21 **3** Mohammad Amawi and the other defendants want to  
09:16:23 **4** defend Iraq. They don't live in Iraq. They don't even come  
-08:-39:-30 **5** from Iraq. The United States did not invade Mohammad Amawi's  
09:16:33 **6** country of Jordan. In fact, as you heard from Mohammad Amawi's  
-08:-39:-30 **7** own father, the United States enjoys a good relationship with  
-08:-39:-30 **8** the country of Jordan.  
09:16:43 **9** I want to play a couple examples of Mohammad  
-08:-39:-30 **10** Amawi's version of defense for you. It will go very quickly.  
09:16:52 **11** The first one has to do with it's okay to bring  
-08:-39:-30 **12** jihad to America when innocent people are dying It's  
09:16:59 **13** 12-69185-4 A.  
09:17:13 **14** (Audio is played.)  
09:18:06 **15** MR. SOFER: Play the next clip. We fight those  
09:18:09 **16** who are fighting us. I'm sorry, it's the attack on the  
09:18:19 **17** Pentagon.  
09:18:24 **18** (Audio is played.)  
09:18:31 **19** MR. SOFER: The next one is attack on the  
-08:-39:-30 **20** President. 10-A.  
09:18:36 **21** (Audio is played.)  
09:19:11 **22** MR. SOFER: Now we fight those who are fighting  
-08:-39:-30 **23** US.  
09:19:15 **24** (Audio is played.)  
09:19:42 **25** MR. SOFER: Attack on embassies, 5-A.

09:19:47 **1** (Audio is played.)

09:20:01 **2** MR. SOFER: Attack on foreign presidents, 6-A.

09:20:06 **3** (Audio is played.)

-08:-39:-30 **4** MR. SOFER: This is on February 16.

09:20:47 **5** (Audio is played.)

09:20:48 **6** MR. SOFER: And, ladies and gentlemen, who are the

-08:-39:-30 **7** bad guys that the Ummah needs to be defended against? Who is

09:20:56 **8** being targeted in almost all of the videos that you saw? Who

-08:-39:-30 **9** does Mohammad Amawi think is defiling Muslim women, killing

-08:-39:-30 **10** innocent people? The answer is very clear from all of the

-08:-39:-30 **11** evidence that you've seen in this case: It's the United States

-08:-39:-30 **12** in general, and the United States military in particular. To

09:21:12 **13** Mohammad Amawi, Marwan El-Hindi, and Wassim Mazloun, the United

09:21:16 **14** States is the enemy. Ask yourselves, whose deaths do the

-08:-39:-30 **15** defendants cheer? Whose death does Mohammad Amawi mourn?

09:21:26 **16** Whose death does he laugh about, and whose death does he cry

-08:-39:-30 **17** about? The answer to these questions is also clear.

-08:-39:-30 **18** How else do you know this so-called defense is

-08:-39:-30 **19** really actually offensive commission of the very crimes that are

09:21:42 **20** charged in this case? Look who he admires and empathizes with.

09:21:47 **21** He said he loved Osama Bin Laden. He asked to be joined with

09:21:51 **22** Abu Musab Al Zarqawi, who is the leader of Al-Qaeda in Iraq. He

09:21:57 **23** wanted to die a mujahidin. He loves the sniper who killed two

-08:-39:-30 **24** American soldiers. Compare that with how he refers to our

09:22:04 **25** troops. He calls them toothless white trash guys, stinky

-08:-39:-30 **1** people, and people who have only short aims in life.

09:22:11 **2** Also look at the weapons and tactics that he and

09:22:14 **3** the other defendants want to learn. As I said before, they're

-08:-39:-30 **4** not defensive. IEDs, bombs, mortars, suicide vests, ambush

09:22:23 **5** tactics, these are not weapons of defense. They're not needed

09:22:28 **6** to protect your home. It's offensive; kill anything in the

09:22:30 **7** name of defending the Ummah. It's also the definition of

-08:-39:-30 **8** violent jihad. And it's also a crime in the United States.

09:22:39 **9** This is further made clear when you listen to Mohammad Amawi and

-08:-39:-30 **10** the other defendants talk about who is, isn't, and who needs to

-08:-39:-30 **11** be killed. He and the other defendants clearly see the United

-08:-39:-30 **12** States forces serving in Iraq as worthy targets.

09:22:54 **13** I want to play this one because we don't have time,

-08:-39:-30 **14** but there's the clip in which Mohammad Amawi is talking to a

09:22:59 **15** soldier. He said he talked to a soldier in a chat room or

09:23:04 **16** e-mail or something like that. He said: If I see you in the

09:23:07 **17** battle field, I will shoot you; shoot you in the head. This

-08:-39:-30 **18** evidence shows Mohammad Amawi desperately wants to defend his

-08:-39:-30 **19** people from the United States and its military.

09:23:17 **20** Let me quote from Mr. Bryan's closing argument

-08:-39:-30 **21** here. "Zaki Amawi testified that he saw these videos many

-08:-39:-30 **22** times. Some of you, when you heard that, thought, That's

-08:-39:-30 **23** terrible. The father is just like the son. This is part

09:23:28 **24** of -- this is their part of the world. We went to their part of

-08:-39:-30 **25** the world. The war is not happening in our part of the world."

09:23:35 **1** THE COURT: Mr. Sofer, maybe a little slower.

-08:-39:-30 **2** MR. SOFER: I'm sorry.

-08:-39:-30 **3** "The war is not happening in our part of the world"

-08:-39:-30 **4** is what he said. "This has happened in Mohammad Amawi's

09:23:46 **5** backyard. I think it's important to point these things out to

-08:-39:-30 **6** show why he may say some of the things that he says. It's also

-08:-39:-30 **7** important to show Mohammad Amawi's intent is to train. We don't

-08:-39:-30 **8** deny that."

09:24:00 **9** That's also a fairly big concession, ladies and

09:24:03 **10** gentlemen. Mohammad Amawi wanted to train. And he actually

-08:-39:-30 **11** started training to fight U.S. soldiers in Iraq. That's one of

-08:-39:-30 **12** the allegations in this case, and that's what the evidence

-08:-39:-30 **13** shows. Whether Mr. Bryan and Mohammad Amawi like it or not, it

09:24:17 **14** is illegal in the United States to plot and plan to kill the

-08:-39:-30 **15** troops of this country while they serve overseas. It is also

09:24:25 **16** illegal to provide material support to those people who blow up

-08:-39:-30 **17** our troops and snipe at them from their safe hiding places.

-08:-39:-30 **18** These are our laws, and these are the laws under which you are

-08:-39:-30 **19** being asked to evaluate the evidence in this case.

09:24:39 **20** If you think about it, the argument that Mr. Bryan

09:24:41 **21** is asking you to accept is particularly offensive to those in

-08:-39:-30 **22** the Muslim community here in Toledo who do not believe that

-08:-39:-30 **23** killing U.S. troops is mandated or excused by their religion or

-08:-39:-30 **24** their religious beliefs. These are the people that Mohammad

09:24:55 **25** Amawi mocks when he says "Islam is peace, Islam is peace." I

09:24:59 **1** won't play that clip for you either.

09:25:01 **2** I want to emphasize again that I can't possibly set

-08:-39:-30 **3** out all of the evidence that contradicts all the arguments that

-08:-39:-30 **4** Mr. Bryan or the other defense attorneys made to you. The

-08:-39:-30 **5** government relies on your recollection of this evidence to

09:25:13 **6** critically analyze the arguments. Nevertheless, let me try

-08:-39:-30 **7** quickly to go through some of the arguments, specific arguments

-08:-39:-30 **8** that Mr. Bryan made.

-08:-39:-30 **9** "Darren Griffin is creating a conspiracy" was the

-08:-39:-30 **10** first one. He talked about this a lot with respect to Marwan

09:25:29 **11** El-Hindi. It falls apart when you ask yourself: Does this

09:25:33 **12** make sense when you look at all of the evidence? Rather than

09:25:37 **13** creating conspiracy, he was gathering information on possible

09:25:40 **14** threats. After Wassim Mazloun entered the conspiracy in

-08:-39:-30 **15** November of 2004, as said before, there was no longer a legal

-08:-39:-30 **16** reason to gather any more conspirators, coconspirators at all.

09:25:53 **17** In fact, if all Darren Griffin and the FBI wanted to do was to

-08:-39:-30 **18** create a conspiracy, they could have focused only on Mohammad

09:26:01 **19** Amawi and Wassim Mazloun right there and stopped talking about

09:26:04 **20** anybody else or asking whether anybody knew anybody else. But

-08:-39:-30 **21** the FBI didn't stop there. It already knew the threat posed by

-08:-39:-30 **22** Marwan El-Hindi and Zubair and Khaleel Ahmed. And it could not

-08:-39:-30 **23** simply ignore those threats. And they didn't stop there.

09:26:19 **24** Darren Griffin was constantly on the lookout for

09:26:21 **25** any other individuals who might pose additional threats. Mr.

09:26:25 **1** Bryan said that when asked, Mohammad Amawi said he didn't know  
-08:-39:-30 **2** anybody else. Sure, he did. He knew Wassim Mazloun. And he  
09:26:32 **3** brought Wassim Mazloun to Darren Griffin for violent jihad  
09:26:35 **4** training. And that just proves that Darren Griffin -- the FBI  
09:26:41 **5** through Darren Griffin was successful in its search for finding  
-08:-39:-30 **6** other threats. Rather than this would never have happened but  
-08:-39:-30 **7** for Darren Griffin, another way to look at it was the FBI would  
-08:-39:-30 **8** never have learned of Wassim Mazloun were it not for Mohammad  
09:26:56 **9** Amawi.

09:26:57 **10** And then Darren Griffin still continued looking for  
-08:-39:-30 **11** more threats even after February 2 of '06 and February 16 of '06  
09:27:05 **12** when Marwan El-Hindi had also clearly joined the conspiracy.  
-08:-39:-30 **13** The two branches came together at that time, if you recall the  
09:27:12 **14** timeline. In the end, this argument about creating a  
-08:-39:-30 **15** conspiracy makes no sense when you look at all of the evidence.

09:27:18 **16** Next argument: Mohammad Amawi is a wimp, and he's  
09:27:21 **17** just boasting. Of course, I am summarizing these arguments.  
09:27:27 **18** Mr. Bryan said that Mohammad Amawi did not have the courage to  
-08:-39:-30 **19** actually go and join the Mujahidin in Iraq. The government  
09:27:33 **20** submits that the evidence establishes he had already tried.  
09:27:37 **21** And Mr. Bryan is correct in one respect: Like a lot of the  
-08:-39:-30 **22** people who attack U.S. troops in Iraq, Mohammad Amawi wanted to  
-08:-39:-30 **23** hide in the shadows and kill without ever being seen. He did  
-08:-39:-30 **24** this partly because he lacked courage. But he also did it  
09:27:51 **25** because he thought that was how he could do more damage. And he



-08:-39:-30 **1** says as much over and over again. There is some truth to that  
-08:-39:-30 **2** statement.  
09:28:00 **3** Next argument: Mohammad Amawi knows not to give  
-08:-39:-30 **4** Darren Griffin the bomb vest video, but he plays with Darren  
-08:-39:-30 **5** Griffin as a toy on the conspiracy charges. Mr. Bryan made a  
-08:-39:-30 **6** number of arguments that Mohammad Amawi purposely did not give  
-08:-39:-30 **7** Darren Griffin the bomb vest video that you have seen and heard  
09:28:18 **8** so much about. Ask yourselves why Mohammad Amawi would ever  
09:28:21 **9** purposely withhold this video as opposed to the hundreds of  
09:28:24 **10** others that he gave to Darren Griffin? Mohammad Amawi gives  
-08:-39:-30 **11** Darren Griffin a ton of training material, any one of which  
-08:-39:-30 **12** might also fall under this statute which makes it illegal to  
-08:-39:-30 **13** distribute materials that demonstrate the manufacture or use of  
09:28:39 **14** an explosive or destructive device. Why would he only withhold  
-08:-39:-30 **15** this one? It doesn't make any sense. In fact, if you listen  
09:28:47 **16** to the recording, if you listen to all of the evidence, you'll  
09:28:51 **17** see that Mohammad Amawi did think he gave Darren Griffin the  
-08:-39:-30 **18** bomb vest video. Also ask yourselves does this argument make  
-08:-39:-30 **19** any sense in light of the other argument that Mohammad Amawi was  
09:29:01 **20** just playing Darren Griffin to see what he could get? Why  
-08:-39:-30 **21** wouldn't he give him the bomb vest video if he's just milking  
-08:-39:-30 **22** Darren Griffin for money?  
09:29:10 **23** It's as if Defense Counsel would have you believe  
-08:-39:-30 **24** that somehow Mohammad Amawi studied the 842(p)(2)(A) charge in  
-08:-39:-30 **25** this case and didn't give Darren Griffin the bomb vest video,

-08:-39:-30 **1** but he forgot to study the 18 U.S.C. 956(a)(1) and 2339A charges  
09:29:30 **2** in the case, so he felt free -- so he messed up when he  
-08:-39:-30 **3** conspired with him accidentally. Again, it makes absolutely no  
09:29:37 **4** sense. I would note, by the way, if Mohammad Amawi had truly  
09:29:41 **5** studied the distribution statute, he would have learned that  
-08:-39:-30 **6** distribution can be done by any means, and that he would not  
09:29:47 **7** have translated or shown the bomb vest video to Darren Griffin  
09:29:50 **8** either.

09:29:52 **9** The crux of Mohammad Amawi's defense is now that he  
09:29:57 **10** was playing Darren Griffin and the FBI. Far from presenting  
-08:-39:-30 **11** you with a reasonable doubt, ladies and gentlemen, this argument  
09:30:08 **12** actually helps confirm the defendant's guilt. Mr. Bryan said  
-08:-39:-30 **13** that after January 10 of 2005 Mohammad Amawi was manipulating  
-08:-39:-30 **14** Darren Griffin in order to get money from him. At the same  
-08:-39:-30 **15** time he argues it was Darren Griffin manipulating Mohammad  
-08:-39:-30 **16** Amawi's religion and culture to get him to say the things that  
-08:-39:-30 **17** he said. Well, he can't have it both ways, ladies and  
09:30:29 **18** gentlemen. And I'd submit to you that it was neither.

09:30:34 **19** Focus on the evidence. November 15, the FBI,  
09:30:37 **20** through Darren Griffin, paid Mohammad Amawi's rent in order to  
09:30:40 **21** keep Mohammad Amawi here in Toledo so that they could continue  
-08:-39:-30 **22** to interact with him and analyze and monitor the threat that he  
09:30:49 **23** posed. Mohammad Amawi gets nothing of any significance until  
-08:-39:-30 **24** August of 2005. This runs completely contrary to Mr. Bryan's  
-08:-39:-30 **25** suggestion that Shannon Coats was conducting some kind of

-08:-39:-30 **1** psychological experiment with a series of rewards and  
09:31:06 **2** punishments, using his psychology degree from Boise State  
09:31:10 **3** University and using Mohammad Amawi as a test subject. Agent  
-08:-39:-30 **4** Coats was not even the primary contact agent for Darren Griffin  
09:31:17 **5** until April of 2005.  
09:31:21 **6** Mohammad Amawi was feeding Darren Griffin at his  
09:31:24 **7** house and also paid for some of the training at Cleland's. Not  
-08:-39:-30 **8** consistent with milking Darren Griffin for money.  
09:31:31 **9** Mohammad Amawi talked about the fact that he owed  
09:31:34 **10** money to Darren Griffin. Why would he ever mention that if he  
09:31:37 **11** was milking him for money? Very important fact: Mohammad  
09:31:43 **12** Amawi's own father got up on that witness stand and stated that  
-08:-39:-30 **13** when Darren Griffin stayed at the Amawi family home in Jordan,  
-08:-39:-30 **14** that Mohammad Amawi asked his father not to charge Darren  
09:31:58 **15** Griffin for the food or the lodging that he enjoyed. Why would  
-08:-39:-30 **16** he do that if he was milking Darren Griffin for money?  
09:32:10 **17** You know the credible and reliable evidence why  
-08:-39:-30 **18** Darren Griffin paid for the plane tickets and why he paid for  
-08:-39:-30 **19** Mohammad Amawi's rent. He was following FBI's orders which  
09:32:20 **20** reflected their need to follow up on important threat  
-08:-39:-30 **21** information. So from November 15, 2005 to August of '06,  
09:32:27 **22** Mohammad Amawi spends countless hours with Darren Griffin and  
09:32:30 **23** risks his freedom all for \$850? If he had worked for minimum  
09:32:37 **24** wage for these months, he would have made more money and not  
-08:-39:-30 **25** have exposed himself, his family, and his friends to any danger

-08:-39:-30 **1** of arrest or prosecution. The argument makes absolutely no  
-08:-39:-30 **2** sense.

09:32:51 **3** What does make sense is that Mohammad Amawi was  
-08:-39:-30 **4** getting something of much greater value from Darren Griffin.  
-08:-39:-30 **5** The evidence showed that he believed that he was getting the  
-08:-39:-30 **6** benefit of training and that Darren Griffin had received from  
-08:-39:-30 **7** the United States military, training and knowledge about how to  
-08:-39:-30 **8** fight violent Jihad. The recordings prove that this is what  
-08:-39:-30 **9** he's interested in and what he was continually asking for  
-08:-39:-30 **10** throughout the case.

09:33:16 **11** Mr. Bryan called Mohammad Amawi a wannabe. The  
-08:-39:-30 **12** government agrees. The recordings you heard prove that he  
-08:-39:-30 **13** wanted to be a sniper, that he wanted to be able to lay IEDs in  
-08:-39:-30 **14** the path of American soldiers, that he wanted to be able to  
09:33:31 **15** ambush troops, that he wanted to train other mujahidin, that he  
-08:-39:-30 **16** wanted to die a mujahidin, and that he wanted to be a martyr.  
-08:-39:-30 **17** Mohammad Amawi was a true wannabe. In other words, he had the  
09:33:40 **18** intent to commit these crimes. He saw Darren Griffin as a way  
-08:-39:-30 **19** to fill in his knowledge, the knowledge that he needed to commit  
-08:-39:-30 **20** these crimes.

09:33:50 **21** I did go back and check about the martyrs photos.  
-08:-39:-30 **22** In fact, they were not on Mohammad Amawi's Sony Vaio laptop.  
09:33:56 **23** Actually, where they were found is even more incriminating.  
-08:-39:-30 **24** They were on a disk that was recovered from Jordan, a disk that  
-08:-39:-30 **25** Mohammad Amawi admitted was his, and that disk is marked as

09:34:07 **1** "Favorites". We'll put it up. It contains "Favorites". I  
-08:-39:-30 **2** don't know if you can see that on your screen, but it is the  
09:34:20 **3** disk. I think the first time we put this on the screen, some  
-08:-39:-30 **4** of you tilted your head. We tilted it around so you could  
-08:-39:-30 **5** actually see it. That's where those martyr photos are from.  
-08:-39:-30 **6** And here are some of the photos that were on the disk.  
09:34:39 **7** (Photos displayed.)  
09:34:44 **8** MR. SOFER: These are the pictures that were on  
-08:-39:-30 **9** the Sony Vaio laptop of Mohammad Amawi.  
09:35:00 **10** I want to get back to the argument that Mohammad  
09:35:02 **11** Amawi was playing Darren Griffin for money. Nine months after  
09:35:05 **12** the January 10, 2005 conversation at Mohammad Amawi's home,  
-08:-39:-30 **13** Darren Griffin did pay for the trip to Jordan. As was  
09:35:13 **14** customary, particularly if someone is staying in the home for  
-08:-39:-30 **15** free, Darren Griffin bought gifts. He also paid money for the  
-08:-39:-30 **16** use of the Jeep. And the FBI -- that was the Jeep that the FBI  
-08:-39:-30 **17** and Darren Griffin hoped would be used to travel to Syria.  
09:35:28 **18** Total value of this package, about \$5,000, maybe a little more,  
-08:-39:-30 **19** a little less.  
09:35:35 **20** Mr. Bryan would have you believe that Mohammad  
09:35:37 **21** Amawi was able to see into the future in January of 2005 or  
09:35:42 **22** before and was able to divine that one day Darren Griffin would  
09:35:46 **23** later buy Mohammad Amawi and his family these items for the  
09:35:49 **24** Jordan trip or give them the use of a satellite phone. He then  
-08:-39:-30 **25** spent day after day with Darren Griffin hoping that one day

-08:-39:-30 **1** Darren Griffin would pay for tickets to Jordan and give him a  
-08:-39:-30 **2** phone. It makes no sense whatsoever. It's not reasonable.  
09:36:07 **3** Again, if there was any truth to this, why ask his father to let  
-08:-39:-30 **4** Darren Griffin stay in the family home for free? It doesn't  
-08:-39:-30 **5** make sense because it's not true.  
09:36:18 **6** Here's a series of other things that show you that  
-08:-39:-30 **7** it's not true. The most important of these in some ways is  
09:36:25 **8** probably a conversation that happened on the same day that Mr.  
-08:-39:-30 **9** Bryan says Mohammad Amawi started to play Darren Griffin. This  
-08:-39:-30 **10** is 11 minutes long. I'm going to try to cut it down, but I  
09:36:37 **11** want you to listen to it. It's a conversation in Arabic. We  
-08:-39:-30 **12** played it during our direct case. And it's a coded  
-08:-39:-30 **13** conversation. And they're talking about cooking and a  
09:36:53 **14** professor. And what they're really talking about is jihad  
-08:-39:-30 **15** training and Darren Griffin. And the government submits,  
-08:-39:-30 **16** ladies and gentlemen, if you play this recording, and you listen  
-08:-39:-30 **17** to it carefully and look at the context of it and what's  
-08:-39:-30 **18** happening, that you'll find that that's exactly what's going on  
-08:-39:-30 **19** here. I'll explain how this completely undermines this entire  
09:37:12 **20** argument by the defense.  
09:37:17 **21** (Audio is played.)  
09:38:16 **22** MR. SOFER: This whole thing about making a cake.  
-08:-39:-30 **23** Remember on this day the testimony is one of the files that was  
-08:-39:-30 **24** given to Darren Griffin on a list was the file "Introduction to  
09:38:25 **25** Cake." It was also a cookbook essentially for making

09:38:29 **1** explosives. Again, if you look at this, there's no way they're  
09:38:34 **2** talking about cake here. Mohammad Amawi is not a baker.  
09:38:54 **3** (Audio is played.)  
09:38:55 **4** MR. SOFER: Who is he talking about here?  
-08:-39:-30 **5** This is one of Mohammad Amawi's contacts.  
09:41:40 **6** (Audio is played.)  
09:42:06 **7** MR. SOFER: You see this contact he has has the  
-08:-39:-30 **8** same problem as Mohammad Amawi: He's got the books, but he  
09:42:13 **9** needs someone to show him. Mohammad Amawi has Darren Griffin.  
-08:-39:-30 **10** That's what he's talking about when he says he wasn't Muslim; he  
-08:-39:-30 **11** became a Muslim.  
09:42:22 **12** Let's continue. But this man has the same problem  
-08:-39:-30 **13** that Mohammad Amawi had before he met Darren Griffin.  
09:43:14 **14** Judge, can we take a brief break?  
09:43:18 **15** THE COURT: We'll take a break. I apologize,  
09:43:18 **16** ladies and gentlemen.  
09:55:38 **17** (Recess taken.)  
09:55:40 **18** MR. SOFER: We're very close, ladies and  
-08:-39:-30 **19** gentlemen. I know it's late. I apologize, but we are very  
-08:-39:-30 **20** close. We're going to skip ahead because of the time. But let  
09:55:53 **21** me again specifically ask you if you have any questions about  
-08:-39:-30 **22** what is actually going on in this recorded conversation, it may  
-08:-39:-30 **23** take you a couple times to go through it, certainly you can and  
09:56:07 **24** should ask to hear it.  
09:56:08 **25** In the end, Mohammad Amawi explains a little bit of

-08:-39:-30 **1** what this conversation is. But we're going to skip ahead  
09:56:15 **2** towards the end so that we can get you out of here at a  
09:56:20 **3** semi-reasonable hour. Maybe that time's already passed.  
09:57:48 **4** So he had a contact -- that is Mohammad Amawi's  
-08:-39:-30 **5** overseas contact had someone who could teach him but wouldn't  
-08:-39:-30 **6** teach him. Different than Mohammad Amawi who talks about his  
09:58:01 **7** contact, who is Darren Griffin, who is teaching him and can  
-08:-39:-30 **8** teach him all kinds of things. This conversation is preceded by  
-08:-39:-30 **9** some talk of a chat room. The government submits there is no  
-08:-39:-30 **10** evidence of exactly what Mohammad Amawi was doing on the  
09:58:13 **11** computer when he was multi-tasking. And he was multi-tasking  
-08:-39:-30 **12** on that computer more than once. We do know from the testimony  
-08:-39:-30 **13** of Darren Griffin, and Mohammad Amawi can be heard on the  
-08:-39:-30 **14** recordings, that Mohammad Amawi was capable of doing more than  
-08:-39:-30 **15** one thing at a time. But who was instant messaging or e-mails  
-08:-39:-30 **16** or otherwise communicating at particular moments that are not  
09:58:35 **17** captured on the audio or video are far from clear.  
09:58:38 **18** One thing that is clear, ask yourselves why, if  
09:58:42 **19** Mohammad Amawi was toying with Darren Griffin, would he ever  
-08:-39:-30 **20** have this conversation with his contact in Arabic? It's clear  
-08:-39:-30 **21** that Mohammad Amawi is really talking to a like-minded jihadist  
-08:-39:-30 **22** about jihad training in code. There's no need to do this if  
-08:-39:-30 **23** you're just playing Darren Griffin. It's not consistent with  
-08:-39:-30 **24** the other arguments that Mohammad Amawi is somehow tricking  
-08:-39:-30 **25** Darren Griffin into thinking that Mohammad Amawi is talking to



-08:-39:-30 **1** jihadists overseas. Did he have an actor on the other end of  
-08:-39:-30 **2** the phone or computer who just pretended to be speaking Arabic  
-08:-39:-30 **3** to talk in code about jihad? It makes no sense. And it makes  
-08:-39:-30 **4** no sense because it's not true.

09:59:25 **5** The nonsensical nature of this argument is further  
-08:-39:-30 **6** revealed if you look at some of the other evidence in the case.  
09:59:33 **7** Ask yourselves: If Mohammad Amawi is playing Darren Griffin,  
-08:-39:-30 **8** why does he expose his family and his friends to Darren Griffin  
09:59:41 **9** who he thinks is suspicious and is working for the FBI? Why  
-08:-39:-30 **10** does he expose Wassim Mazloun and ultimately Wassim Mazloun's  
09:59:50 **11** brother to Darren Griffin? Why does Mohammad Amawi talk to  
-08:-39:-30 **12** Wassim Mazloun about Darren Griffin when Darren Griffin isn't  
09:59:56 **13** around? And why does Mohammad Amawi clearly tell Wassim  
-08:-39:-30 **14** Mazloun what Darren Griffin can provide and that Darren Griffin  
-08:-39:-30 **15** can be trusted? Why does he sit there and discuss violent  
-08:-39:-30 **16** jihad when Wassim Mazloun and sometimes Marwan El-Hindi are  
10:00:12 **17** there? Why does Mohammad Amawi engage Marwan El-Hindi and  
10:00:19 **18** Wassim Mazloun in these conversations sometimes in Arabic in  
10:00:23 **19** February of 2005? Is he trying to get them in trouble? It  
-08:-39:-30 **20** makes no sense. Why does he expose Darren Griffin to his own  
-08:-39:-30 **21** mother or, vice versa, his own mother to Darren Griffin? Why  
-08:-39:-30 **22** does Mohammad Amawi follow up at all on the e-mail regarding  
10:00:41 **23** Astrolite if he's just playing? Why does he complain to Darren  
10:00:45 **24** Griffin that things aren't going fast enough? Why doesn't  
-08:-39:-30 **25** Mohammad Amawi go back for the wallet that contains Darren

-08:-39:-30 **1** Griffin's contact information and also Mohammad Amawi's contact  
10:00:57 **2** and -- I'm sorry, Darren Griffin's contact in Kuwait for the  
-08:-39:-30 **3** Astrolite? What's he afraid of if he already knows Darren  
10:01:06 **4** Griffin knows all these things and is working for the FBI and  
10:01:09 **5** reporting it all back to the FBI? Why does Mohammad Amawi  
-08:-39:-30 **6** bring Darren Griffin to Jordan to meet his whole family and all  
-08:-39:-30 **7** of those friends that you saw pictures of, including people he  
10:01:19 **8** calls "trusted brothers"? Why does he tell Darren Griffin  
-08:-39:-30 **9** about other possible recruits and give Darren Griffin their  
-08:-39:-30 **10** names and where they come from? Why does he suggest his own  
-08:-39:-30 **11** cousin in Houston for jihad training if he thinks Darren Griffin  
-08:-39:-30 **12** is working for the FBI? Why does he ask Darren Griffin to pick  
-08:-39:-30 **13** up and deliver some of his most personal documents for the  
10:01:42 **14** second trip? Why does Mohammad Amawi tell Darren Griffin about  
10:01:45 **15** members of his family's attempt to kill the king of Jordan?  
10:01:49 **16** Remember that Jordan is more strict than the United States.  
-08:-39:-30 **17** Remember that the United States has a good relationship with the  
-08:-39:-30 **18** country of Jordan. And remember that it's a crime to say bad  
-08:-39:-30 **19** things about the king of Jordan, much less have a plan to kill  
-08:-39:-30 **20** him.

10:02:03 **21** There's a tape about that, a recording that  
-08:-39:-30 **22** actually has him talking about this. I won't play it for you.  
-08:-39:-30 **23** But if you want to hear it, it's on 1D-5-69185-2.

10:02:16 **24** THE JUROR: Say that again, please.

10:02:18 **25** MR. SOFER: 5-69185-2.

-08:-39:-30 **1** Why on February 16 does Mohammad Amawi talk about  
-08:-39:-30 **2** wanting to kill other leaders in the Arabic world? If this  
-08:-39:-30 **3** information was given to the FBI and related to other  
-08:-39:-30 **4** governments, what would Mohammad Amawi be risking in traveling  
-08:-39:-30 **5** to places like Saudi Arabia and Egypt? Why is Mohammad Amawi  
10:02:37 **6** constantly talking about keeping things secret and being careful  
-08:-39:-30 **7** not to talk about what they are doing?

-08:-39:-30 **8** The answer to all of these questions is clear:  
-08:-39:-30 **9** Mohammad Amawi is not playing Darren Griffin at all. He  
-08:-39:-30 **10** believes what Darren Griffin is telling him, and he sees Darren  
10:02:55 **11** Griffin as a gift from God. He actually says as much.  
10:02:58 **12** Someone who can help Mohammad Amawi do what he and the other  
-08:-39:-30 **13** defendants believe is right and necessary, and that's to engage  
-08:-39:-30 **14** in violent jihad overseas.

10:03:06 **15** It's no wonder that Mohammad Amawi is making this  
10:03:09 **16** argument. He can't credibly deny the substance of all the  
-08:-39:-30 **17** recorded conversations. He can't credibly argue that Darren  
-08:-39:-30 **18** Griffin is an evil genius who manipulated him into doing the  
-08:-39:-30 **19** things he did and saying the things he said. He has to come up  
-08:-39:-30 **20** with something that explains all of this evidence. This is all  
-08:-39:-30 **21** that remains.

10:03:31 **22** Ladies and gentlemen, I suggest to you that some of  
-08:-39:-30 **23** these arguments that the defense made are inconsistent with  
10:03:37 **24** themselves, and they're also inconsistent with the other  
10:03:40 **25** arguments by the other defense attorneys.

10:03:45 **1** MR. DOUGHTEN: Objection.

10:03:46 **2** THE COURT: It will be the same comment as before,  
-08:-39:-30 **3** ladies and gentlemen. You should consider only that portion of  
-08:-39:-30 **4** this argument that was in response to argument made by defense  
-08:-39:-30 **5** counsel.

10:04:04 **6** MR. SOFER: One defendant says he was pretending  
-08:-39:-30 **7** to be a terrorist. One says that Darren Griffin tricked him  
10:04:10 **8** into behaving like a terrorist. And the last guy says he was  
-08:-39:-30 **9** trying to learn terrorism tactics and bombs so he could return  
10:04:17 **10** to Lebanon.

-08:-39:-30 **11** Ladies and gentlemen, this has been a long case,  
10:04:22 **12** and it's important to the defendants and to the United States of  
10:04:27 **13** America. The evidence in this case has proven that each of the  
10:04:33 **14** defendants are guilty beyond a reasonable doubt of the crimes  
10:04:37 **15** for which they have been charged. If you examine the evidence,  
-08:-39:-30 **16** all of the evidence, and only the evidence, you will return the  
10:04:48 **17** verdict that justice requires: A verdict of guilty.

10:04:52 **18** Thank you very much for your time.

10:05:09 **19** THE COURT: Ladies and gentlemen, I'll now read you  
-08:-39:-30 **20** the final portion.

10:05:23 **21** (Discussion had off the record.)

10:05:29 **22** THE COURT: We'll start on page 43. It should  
-08:-39:-30 **23** take only about five or six minutes.

10:05:47 **24** Part 3, instructions regarding deliberations.

10:05:51 **25** Members of the jury, you are the finders of fact in

-08:-39:-30 **1** this case. You are to take the law as I have now just  
10:06:01 **2** explained it to you, and as I am now explaining to you, and  
-08:-39:-30 **3** apply the law to the evidence in this case to determine your  
-08:-39:-30 **4** verdicts. A few final legal instructions are necessary for  
-08:-39:-30 **5** your consideration before you retire to the jury room to begin  
-08:-39:-30 **6** your deliberations.

10:06:17 **7** Instruction number 24, deliberations.

10:06:21 **8** Before you begin deliberating, choose someone to be  
-08:-39:-30 **9** your foreperson to help you to guide your discussion and speak  
-08:-39:-30 **10** on your behalf in court.

-08:-39:-30 **11** A foreperson has no greater voice or influence than  
-08:-39:-30 **12** any other juror, and a foreperson's opinion and vote are no more  
-08:-39:-30 **13** important than those of any other member of the jury.

10:06:43 **14** Consider and discuss the case only when all 12 of  
10:06:48 **15** you are present together in the jury room. Do not discuss it  
-08:-39:-30 **16** outside the jury room with anyone. Do not discuss it unless  
-08:-39:-30 **17** all jurors are present.

10:06:59 **18** While deliberating, do not talk to the clerk, or to  
-08:-39:-30 **19** me, or anyone else except each other about the case. If you  
10:07:08 **20** have any questions or messages, write them down and give them to  
10:07:12 **21** the clerk, who will give them to me. Questions should be  
10:07:16 **22** signed by the foreperson.

10:07:18 **23** I will respond as quickly as I can, but it may take  
-08:-39:-30 **24** some time to do so.

10:07:27 **25** Do not ever tell anyone or otherwise disclose how

-08:-39:-30 **1** you stand on your votes. For example, do not write down or  
-08:-39:-30 **2** tell anyone that you are split six, six or eight, four or  
10:07:38 **3** whatever your vote happens to be. That must, must remain  
-08:-39:-30 **4** secret until you are finished.

10:07:46 **5** From now until you have reached your verdict, you  
-08:-39:-30 **6** may determine the schedule for your deliberations. Please tell  
-08:-39:-30 **7** the clerk when you are taking recesses or adjourning for the day  
10:07:58 **8** and when you will be resuming deliberations.

-08:-39:-30 **9** While in recess or adjournment, do not discuss the  
-08:-39:-30 **10** case with anyone, and take nothing relating to the case from the  
-08:-39:-30 **11** jury room. Do not engage in any outside research or otherwise  
10:08:10 **12** try to find out more about the case. Do not read, listen to,  
-08:-39:-30 **13** or watch accounts about the case.

10:08:18 **14** Instruction number 25. Your verdicts, whether  
10:08:24 **15** guilty or not guilty, must be unanimous. To find the defendant  
-08:-39:-30 **16** guilty of a charge, every one of you must agree that the  
-08:-39:-30 **17** government has overcome the presumption of innocence and met its  
-08:-39:-30 **18** burden of proof with evidence that proves his guilt beyond a  
10:08:41 **19** reasonable doubt.

10:08:41 **20** Likewise, to find the defendant not guilty, every  
-08:-39:-30 **21** one of you must agree that the government has failed to prove  
-08:-39:-30 **22** the defendant guilty beyond a reasonable doubt.

-08:-39:-30 **23** Either way, guilty or not guilty, your verdict must  
10:08:58 **24** be unanimous.

10:08:59 **25** Instruction number 26, duty to deliberate.

-08:-39:-30 **1** Now that the case is being given to you to decide,  
-08:-39:-30 **2** it is your duty to talk with each other about the evidence and  
-08:-39:-30 **3** make every reasonable effort to reach unanimous agreement. Talk  
-08:-39:-30 **4** with each other, listen carefully and respectfully to each  
-08:-39:-30 **5** other's view, and keep an open mind as you listen to what each  
10:09:25 **6** other has to say.

10:09:26 **7** Try your best to work out your differences.

10:09:30 **8** Do not hesitate to change your mind if you are  
10:09:34 **9** convinced that other jurors are right and that your original  
-08:-39:-30 **10** position was wrong. But do not ever change your mind just  
-08:-39:-30 **11** because other jurors see things differently, or just to get the  
-08:-39:-30 **12** case over with. In the end, your vote must be exactly that:  
-08:-39:-30 **13** Your own vote. It is important for you to reach unanimous  
10:09:56 **14** agreement, but only if you can do so honestly and in good  
-08:-39:-30 **15** conscience.

10:10:01 **16** Remember that you are judges -- judges of the  
10:10:06 **17** facts. You are not partisans or advocates for one side or the  
10:10:11 **18** other, or for a particular outcome.

10:10:13 **19** No one will be allowed to hear your discussions in  
-08:-39:-30 **20** the jury room, and no record will be made of what you say. So  
-08:-39:-30 **21** you should all feel free to speak your minds.

-08:-39:-30 **22** Listen carefully to what the other jurors have to  
-08:-39:-30 **23** say, and then decide for yourself if the government has proved  
-08:-39:-30 **24** the defendants under consideration guilty beyond a reasonable  
-08:-39:-30 **25** doubt.

-08:-39:-30 **1** Instruction number 27, punishment.

10:10:39 **2** In reaching your verdict as to whether the

10:10:42 **3** government has proven the defendants guilty beyond a reasonable

10:10:45 **4** doubt, or has failed to do so, you must not consider the

10:10:49 **5** consequences of your verdict.

10:10:51 **6** Instruction number 28. I have prepared verdict

-08:-39:-30 **7** forms that you should use to record your verdicts.

10:11:02 **8** I think, Amy, do they have copies of them? There

-08:-39:-30 **9** is one additional form that I'll read to you. Then this set

-08:-39:-30 **10** that I send back should be the set that you should use. If you

-08:-39:-30 **11** want to turn to the first exemplar form, its that caption. For

-08:-39:-30 **12** each of the three defendants, the forms are the same in their

10:11:28 **13** content as to the first two charges, the two conspiracy charges.

-08:-39:-30 **14** And I'll just read one by way of example:

-08:-39:-30 **15** In the United States District Court in the Northern

10:11:40 **16** District of Ohio, Western Division, United States of America,

-08:-39:-30 **17** Plaintiff, versus Mohammad Zaki Amawi, Defendant. 3:06 CR 719.

10:11:51 **18** Verdict: We, the jury, duly impaneled and sworn, find the

10:11:56 **19** defendant, Mohammad Zaki Amawi, as to Count 1, conspiracy to

-08:-39:-30 **20** kill, kidnap, maim or injure persons outside of the United

-08:-39:-30 **21** States, pursuant to 18 U.S. Code, 956(a)(1), not guilty or

-08:-39:-30 **22** guilty, whichever verdict you reach, have the foreperson mark

10:12:16 **23** the appropriate area, space, and then each of you must sign the

-08:-39:-30 **24** verdict.

10:12:23 **25** As to that charge and the content, as I say, is the



-08:-39:-30 **1** same as to the charge under Count 1 as to Mr. El-Hindi and Mr.  
10:12:32 **2** Mazloun.

-08:-39:-30 **3** As to that charge, there is a verdict form that you  
-08:-39:-30 **4** do not have which you will have with you. Again, it repeats  
10:12:42 **5** the caption, and it is to be used by you only if you find a  
10:12:50 **6** defendant guilty of Count 1. If you find a defendant not  
10:12:53 **7** guilty of Count 1, then disregard this second form.

10:12:57 **8** If you have found this defendant guilty of the  
-08:-39:-30 **9** crime charged in Count 1, conspiracy to kill, maim, kidnap or  
10:13:05 **10** injure persons outside the United States, pursuant to 18 U.S.  
-08:-39:-30 **11** Code section 956(a)(1), you must unanimously answer whether the  
10:13:13 **12** object of the conspiracy was to murder persons in another  
-08:-39:-30 **13** country, if you find that that was the object. If you find  
-08:-39:-30 **14** beyond a reasonable doubt that that was the object of the  
10:13:25 **15** conspiracy, then you should check -- put an X by "yes." And if  
10:13:32 **16** you unanimously find that that was not an object of the  
-08:-39:-30 **17** conspiracy, that the government has failed to meet its burden of  
-08:-39:-30 **18** proving that beyond a reasonable doubt, then mark "no." Then  
-08:-39:-30 **19** you must also consider whether or not you find unanimously that  
10:13:47 **20** the object of the conspiracy was to maim persons in another  
10:13:50 **21** country. Likewise, check the appropriate box, reflecting your  
10:13:55 **22** verdict. And then once again, it must be signed by the  
-08:-39:-30 **23** foreperson and all 12 jurors.

10:14:04 **24** The next instruction relates to Count 2. Again,  
-08:-39:-30 **25** the next is the same for all three defendants. It contains the

10:14:13 **1** caption as to each particular defendant. And there's separate  
-08:-39:-30 **2** verdicts for each defendant. We, the jury, duly impaneled and  
10:14:23 **3** sworn, find the defendant, Mohammad Zaki Amawi, pursuant to 18  
10:14:30 **4** U.S. Code Section 2339A -- check the box which reflects your  
-08:-39:-30 **5** verdict. All 12 jurors sign that. And those are the only  
10:14:41 **6** instructions with regard to Mr. Mazloun.  
-08:-39:-30 **7** As to Mr. Amawi, there are two other instructions  
-08:-39:-30 **8** containing the caption and they read: We, the jury, duly  
10:14:58 **9** impaneled and sworn, find the defendant, Mohammad Zaki Amawi, as  
-08:-39:-30 **10** to Count 3, distributing information regarding explosives  
-08:-39:-30 **11** pursuant to 18 U.S. Code, Section 842(p)(2)(A) -- again, check  
10:15:10 **12** whichever line reflects your verdict.  
-08:-39:-30 **13** Then finally, with regard to Mr. Amawi, final  
10:15:19 **14** verdict form is: We, the jury, duly impaneled and sworn, find  
-08:-39:-30 **15** the defendant, Mohammad Zaki Amawi, as to Count 4, distributing  
-08:-39:-30 **16** information regarding explosives, pursuant to 18 U.S. Code  
10:15:30 **17** 842(p)(2)(A), either not guilty or guilty.  
10:15:36 **18** Then there are the similar two additional charges  
-08:-39:-30 **19** with regard to Mr. El-Hindi. After the caption: We, the jury,  
-08:-39:-30 **20** duly impaneled and sworn, find the Defendant, Marwan Othman  
10:15:58 **21** El-Hindi, as to Count 5, distributing information regarding  
10:16:01 **22** explosives pursuant to 18 U.S. Code section 842(p)(2)(A). Then  
-08:-39:-30 **23** again you check the appropriate box, and all 12 of you must sign  
10:16:12 **24** reflecting unanimity.  
10:16:14 **25** And then the last verdict form is: We, the jury,

10:16:17 **1** duly impaneled and sworn, find the defendant, Marwan Othman  
10:16:21 **2** El-Hindi, as to Count 6, distributing information regarding  
10:16:24 **3** explosives, pursuant to 18 U.S. Code 842(p)(2)(A), then check  
-08:-39:-30 **4** the box either not guilty or guilty.

-08:-39:-30 **5** I should indicate, I trust you understand that the  
10:16:38 **6** fact that I read the forms in a particular order with reference  
-08:-39:-30 **7** to a particular defendant indicates no view on my part as to  
-08:-39:-30 **8** your verdicts. And these forms will also be with you and  
-08:-39:-30 **9** should be the ones that you sign upon reaching your verdict.

-08:-39:-30 **10** To return to instruction number 28. If you  
10:17:05 **11** unanimously decide that the government has proved the charges  
10:17:07 **12** against the defendants beyond a reasonable doubt, have your  
-08:-39:-30 **13** foreperson mark the appropriate place on the form. If you  
10:17:12 **14** decide that government has not proved the charge against the  
-08:-39:-30 **15** defendant beyond a reasonable doubt, your foreperson marks the  
-08:-39:-30 **16** appropriate place on the form or forms.

-08:-39:-30 **17** Each of you should then sign the form or forms.

-08:-39:-30 **18** Then notify the clerk that you have reached your  
10:17:27 **19** verdicts, and hand the verdicts to her.

-08:-39:-30 **20** Before your verdicts are read in court, do not  
-08:-39:-30 **21** disclose them to anyone.

-08:-39:-30 **22** I'll now discharge the alternates in this case, and  
-08:-39:-30 **23** in a moment I will ask that you return to the jury room to  
10:17:41 **24** undertake and complete your deliberations in the case.

10:17:45 **25** Thank you.

10:17:46 **1** Instruction number 29, the last instruction.

10:17:52 **2** Alternate jurors. Some of you now must be excused as jurors

-08:-39:-30 **3** because only 12 persons can deliberate and reach a verdict.

10:18:00 **4** I instruct you, once I know who you are, that you

-08:-39:-30 **5** must continue to refrain, absolutely refrain from discussing the

-08:-39:-30 **6** case with anyone until you have learned that a verdict has been

-08:-39:-30 **7** returned. And Amy or Annie Crawford will give you a call and

-08:-39:-30 **8** let you know when that's happened. You must also refrain from

10:18:21 **9** reading, listening to, or viewing any news accounts about the

-08:-39:-30 **10** case until you have learned that a verdict has been returned.

-08:-39:-30 **11** In the event that something happens that makes it

-08:-39:-30 **12** impossible for one of the deliberating jurors to participate

-08:-39:-30 **13** until a verdict is reached, it may be necessary to recall you to

-08:-39:-30 **14** become a member of the jury. For this reason you must comply

-08:-39:-30 **15** with this instruction.

10:18:42 **16** In other words, you must continue to conduct

10:18:46 **17** yourself as if you were still a member of the jury.

-08:-39:-30 **18** Once the case is over, you can discuss it with

10:18:52 **19** anyone or no one. That is your choice. Sincere thanks for

-08:-39:-30 **20** your service in this case.

10:18:58 **21** The three jurors who are the alternate jurors and

-08:-39:-30 **22** will be excused at this time subject to that instruction are

10:19:06 **23** Juror Number 334, Juror Number 347 and Juror 388. I don't know

-08:-39:-30 **24** whether you will be taking leave happily or sadly. I expect

-08:-39:-30 **25** that given the service that each of have you performed, there's

-08:-39:-30 **1** a measure of disappointment on the part of those who are now  
10:19:33 **2** being excused as alternates. But I simply want to repeat  
-08:-39:-30 **3** before you leave what I said to you at the outset of this case  
10:19:41 **4** during the course of voir dire. While your service, as  
-08:-39:-30 **5** well-performed as it so apparently and visibly by all of us in  
-08:-39:-30 **6** this case has been, you have fulfilled one of the most  
-08:-39:-30 **7** important, fundamentally important civic duties any one of us  
-08:-39:-30 **8** can be called upon to perform. We don't disclose who the  
-08:-39:-30 **9** alternates are. Those of you who were in the highest end of the  
10:20:08 **10** row may have anticipated that, but that's not always the case.  
10:20:11 **11** Sometimes there's others who are excused as alternates. But I  
-08:-39:-30 **12** hope you understand, the most sincere and heartfelt thanks and  
10:20:22 **13** appreciation and gratitude on the part of all of the parties in  
-08:-39:-30 **14** this case, the attorneys, myself, and ultimately that of your  
10:20:31 **15** fellow citizens who you have served very, very well and we are  
-08:-39:-30 **16** deeply grateful.  
10:20:38 **17** I will send up the jury instructions, the exhibits  
-08:-39:-30 **18** also will be collected and brought up probably sometime first  
-08:-39:-30 **19** thing in the morning. I'm going to send the 12 of you upstairs  
-08:-39:-30 **20** to see whether you want to begin deliberating. It's entirely  
-08:-39:-30 **21** up to you. You can walk upstairs, tell Amy you are leaving,  
-08:-39:-30 **22** and go.  
10:20:58 **23** I would suggest that the first order of business,  
10:21:00 **24** as I indicated, is to select the foreperson. If you don't even  
-08:-39:-30 **25** feel like doing that tonight, that's fine, because we have gone

10:21:07 **1** later, and I apologize for that. I appreciate your patience.

-08:-39:-30 **2** I very much wanted to get the case to you now so you could get

10:21:15 **3** underway, at long last, your very important deliberations.

-08:-39:-30 **4** The one thing I would ask is that you keep Amy

10:21:21 **5** posted as to when you will be adjourning and when you'll be

10:21:25 **6** taking a recess either for a break, just a break in your

10:21:31 **7** deliberations, for you to go out for lunch. And that's entirely

10:21:35 **8** up to you; you can do so or you can order in if you want. And

10:21:40 **9** just let Amy know so we know.

10:21:46 **10** The schedule is entirely in your hands. If you

-08:-39:-30 **11** wanted to start deliberating right now, that's fine. That's

10:21:53 **12** your call. If you want to come in at 10:00, 9:00, 8:30

10:21:58 **13** tomorrow, that's entirely up to you. So there's no set

10:22:01 **14** timetable for you, and you are the timekeepers. So you may now

-08:-39:-30 **15** retire to the jury room. Let us know how you want to proceed

-08:-39:-30 **16** this evening. Thank you.

10:22:53 **17** (Jury exits the courtroom.)

10:22:56 **18** THE COURT: I neglected to ask Amy, I place the

-08:-39:-30 **19** responsibility on counsel to make sure that the exhibits that

-08:-39:-30 **20** properly should go back to the jury are assembled and given to

-08:-39:-30 **21** Amy to do so. Obviously, given the number of exhibits, I trust

-08:-39:-30 **22** that you will each check the others and make sure that there's

-08:-39:-30 **23** no -- nothing goes back that shouldn't go back, and there's

10:23:24 **24** nothing omitted that ought to go back.

10:23:28 **25** I want the record to reflect that I deem any and

-08:-39:-30 **1** all objections to the jury instructions to have been renewed  
10:23:37 **2** prior to discharge of the jury and should be preserved. Any  
10:23:43 **3** errors should be preserved for purpose of review -- or any  
10:23:48 **4** challenge.

10:23:50 **5** And with regard to the Rule 29 motions, those will  
10:23:53 **6** be overruled. Okay. Let's wait and see what the jury wants to  
10:24:00 **7** do.

10:24:00 **8** MR. SOFER: What do you expect of us in terms of  
-08:-39:-30 **9** are we allowed to leave? How far are we allowed to go away?

10:24:09 **10** THE COURT: Let's find out what they're doing. I  
-08:-39:-30 **11** do not require you -- where would you be?

10:24:18 **12** MR. SOFER: I would say bar, Your Honor, but...

10:24:23 **13** THE COURT: I may be there myself.

10:24:28 **14** MR. SOFER: No, Judge, I think we would be at the  
10:24:31 **15** United States Attorney's Office, possibly certainly within five  
10:24:34 **16** or ten minutes, at the most 15 minutes away from the courthouse.

-08:-39:-30 **17** THE COURT: Whatever you want. We can make  
-08:-39:-30 **18** arrangements for you to be in the courthouse if you want. It's  
-08:-39:-30 **19** entirely up to you. For example, what I do when and if I get a  
-08:-39:-30 **20** note from the jury, I immediately notify you.

10:24:54 **21** If it's something really simple and routine and  
-08:-39:-30 **22** everyone just says just write it out and send it back with Amy,  
-08:-39:-30 **23** that's fine. Obviously I never respond with them unless we  
-08:-39:-30 **24** have all consulted. I do think that you ought to make real  
-08:-39:-30 **25** sure that you all have your cell phones on and Amy has the

-08:-39:-30 **1** numbers and all of that. Also I think it would probably make  
10:25:20 **2** good sense, given the number of you, that if you haven't done so  
10:25:23 **3** already, sort of designate one person who will be the initial  
10:25:27 **4** contact person who then will take responsibility for calling  
-08:-39:-30 **5** everybody else just in the interest of time.

10:25:37 **6** MR. DOUGHTEN: Two issues, Your Honor. One was I  
10:25:40 **7** wanted to do a quick proffer of an objection. I didn't have  
10:25:43 **8** the heart to drag everybody to side bar this late. The reason  
10:25:47 **9** for the objection is we thought it was improper for the  
10:25:50 **10** prosecutor to say the inconsistent defenses was a proper  
-08:-39:-30 **11** consideration for the jury because I think the Court instructed,  
-08:-39:-30 **12** we believe, each case is individual, each defendant is  
-08:-39:-30 **13** individual, and the fact that our defense may not even coincide  
10:26:05 **14** or be consistent with El-Hindi's is not proper consideration for  
-08:-39:-30 **15** the jury. That's the basis for the objection, so it's on the  
-08:-39:-30 **16** record.

-08:-39:-30 **17** The other issue, we want to be clear, if the jury  
10:26:16 **18** wants to hear the tapes, what's the procedure?

10:26:19 **19** THE COURT: I'm going to tell them, no, they can  
-08:-39:-30 **20** only view or listen to the tapes in open court in the presence  
10:26:28 **21** of the defendants and counsel.

10:26:30 **22** MR. DOUGHTEN: That's our issue. I'm only  
10:26:33 **23** speaking for Mr. Mazloun. We're a little leery about having Mr.  
-08:-39:-30 **24** Mazloun here because it's during deliberations, and it's contact  
-08:-39:-30 **25** with the jury during deliberations. I'm worried because they



-08:-39:-30 **1** could look over, see something, see a reaction.

-08:-39:-30 **2** THE COURT: Let's put it this way. I assume he can

10:26:51 **3** waive his attendance, but I'll do a little research tonight, but

10:26:56 **4** it's certainly always been my practice and my understanding that

-08:-39:-30 **5** he has an absolute right to be present when that is occurring in

-08:-39:-30 **6** the jury room. I'm not sure the question's ever come up to me,

10:27:09 **7** so it may be an assumption on my part. But I do know that it

-08:-39:-30 **8** is mandatory that if they do want to listen to the tape, they

-08:-39:-30 **9** can only do so in the courtroom. Again, if I'm wrong on that,

-08:-39:-30 **10** somebody tell me. That's fine. But I think that that is

10:27:30 **11** simply so that ultimately there could be some regulation or

-08:-39:-30 **12** control.

10:27:39 **13** I would say: Ladies and gentlemen, this is the

-08:-39:-30 **14** third time you've asked to hear this excerpt. At some point

-08:-39:-30 **15** you have to move on down the road, whatever. I don't know.

10:27:47 **16** But that's been my custom.

10:28:15 **17** Tracy tells me in the Outlaw case it was only the

-08:-39:-30 **18** clerk that was in the courtroom.

10:28:21 **19** MR. DOUGHTEN: That was my recollection also. Yes.

10:28:25 **20** THE COURT: Were you in that case also?

-08:-39:-30 **21** MR. DOUGHTEN: That's my recollection. Along that

10:28:35 **22** line, how far do you want him or how far -- how soon do you want

10:28:41 **23** us here after we get contacted to come over? Can we have a

10:28:44 **24** 20-minute leeway, a 30-minute leeway? If he has to be here,

10:28:50 **25** we'll have to have him at Jeff's office. We can do the whole

10:28:55 **1** time.

-08:-39:-30 **2** THE COURT: Twenty minutes is kind of long. I'm

10:28:58 **3** just a little concerned if we get a flurry of questions. Let's

-08:-39:-30 **4** put it this way: Talk amongst all yourselves. If each of you

-08:-39:-30 **5** wants to, designate one attorney who will be the in-court

-08:-39:-30 **6** presence when and if we have the jury present in court to answer

10:29:13 **7** questions or whatever, as sometimes we might have to.

10:29:16 **8** Sometimes I have to say, look, if they keep sending the same

-08:-39:-30 **9** question back, and I keep giving them the same answer, I don't

-08:-39:-30 **10** know. We don't know.

10:29:25 **11** MR. DOUGHTEN: That's fine, Your Honor.

10:29:27 **12** THE COURT: But, I mean, if my impression is wrong,

10:29:32 **13** it's not necessary for the defendants to be here, then that's

10:29:35 **14** fine, except when the verdict is returned. I just don't know.

-08:-39:-30 **15** Mr. Ivey, have any of you had experience? You've

-08:-39:-30 **16** tried a lot more criminal cases amongst the crowd in front of me

-08:-39:-30 **17** than I have.

10:29:53 **18** MR. IVEY: Those of us from out of town want to

10:29:56 **19** know your procedure in terms of the weekend. Do you permit

10:29:59 **20** deliberations through the weekend?

-08:-39:-30 **21** THE COURT: The timetable -- I can't imagine that

-08:-39:-30 **22** they will, but that's their timetable. They have absolute

10:30:07 **23** control over the timetable. If they want to start now and go

-08:-39:-30 **24** until 4:00 in the morning, which I don't think is likely, I'm

-08:-39:-30 **25** just saying, that would be their call. Normally they tend to

-08:-39:-30 **1** come in around 9:00 or 10:00. They usually start a little later  
-08:-39:-30 **2** and so forth. But if you guys want to talk this evening and  
-08:-39:-30 **3** let me know, I've always assumed whenever something is going on  
-08:-39:-30 **4** in the presence of a jury, that at least counsel are entitled to  
10:30:43 **5** be present and ought to be present. And given the quantity of  
10:30:49 **6** tapes and the substantial likelihood that they may want to look  
-08:-39:-30 **7** at them, I think there ought to be at least one prosecutor and  
10:30:56 **8** one member of the defense team here.

-08:-39:-30 **9** That didn't answer your question, did it?

10:31:08 **10** MR. DOUGHTEN: I think we're happy with one lawyer.

-08:-39:-30 **11** Our concern was the defendants. I don't know if we need to  
-08:-39:-30 **12** waive, if it's really -- being present during deliberation is  
-08:-39:-30 **13** kind of a unique issue. My experience has been the Outlaw case  
10:31:24 **14** and other cases that I'm used to, like, the bailiff or the  
10:31:28 **15** deputy with the court reporter when they're reading it, but  
-08:-39:-30 **16** we're more than happy to have a designation of one lawyer.

-08:-39:-30 **17** THE COURT: Let me see if I can find out. Do you  
-08:-39:-30 **18** guys know from the government?

10:31:59 **19** MR. SOFER: My experience is not the same as Mr.  
10:32:01 **20** Doughten. For some reason I look at this similarly to --  
-08:-39:-30 **21** similar to read-back. And if a jury asks for read-back of  
-08:-39:-30 **22** testimony, I've never been in a courtroom where the defendant  
10:32:15 **23** wasn't present for that. But my experience may be unusual.

-08:-39:-30 **24** I think Your Honor is right also that the law, I  
-08:-39:-30 **25** believe, and we can all take a look at this also, but I think

-08:-39:-30 **1** the law says that the reason why these recordings don't go back  
-08:-39:-30 **2** to the jury is there's no way then of controlling how they  
-08:-39:-30 **3** listen to them, where they listen to them. And likewise, since  
-08:-39:-30 **4** the transcripts do not go into evidence, and they're actually  
-08:-39:-30 **5** here via computer, that's the only way that the jury is likely  
-08:-39:-30 **6** to be able to see a transcript with the actual recording. And  
10:32:53 **7** certainly the transcripts -- I shouldn't say certainly. I think  
10:32:58 **8** courts have differed about that a little bit, but I think the  
-08:-39:-30 **9** preferred method is transcripts do not go back to jurors.  
-08:-39:-30 **10** THE COURT: No, transcripts don't go back.  
10:33:08 **11** MR. SOFER: I think what Your Honor is suggesting  
-08:-39:-30 **12** is consistent with the law, but we'd have to do a little  
-08:-39:-30 **13** research to confirm it. I don't know if the Sixth Circuit has  
-08:-39:-30 **14** ever spoken to it.  
10:33:18 **15** THE COURT: Hold on a second.  
10:33:33 **16** (Discussion had off the record.)  
10:33:36 **17** THE COURT: Amy indicated the jurors are going to  
-08:-39:-30 **18** be leaving. They'll commence deliberations tomorrow at 9:00.  
10:33:43 **19** And that it's anticipated that they will be here at 8:30 the  
10:33:50 **20** following days. Give me a moment to do a little research.  
10:36:32 **21** The first case I find indicates there's a split in  
-08:-39:-30 **22** the circuits. Hold on a minute.  
10:38:25 **23** One thing the Sixth Circuit makes quite clear --  
-08:-39:-30 **24** I'm just reading the abstract -- it's defendant's right to be  
10:38:35 **25** present during all stages of trial may be waived. U.S. v.

10:38:40 **1** Riddle, 249 F.3d, 529.

10:38:45 **2** MR. SOFER: Can you repeat that?

10:38:47 **3** THE COURT: R-I-D-D-L-E, 249 F.3d, 529, Sixth

10:38:53 **4** Circuit, 2001. I don't know what it involved, but it makes

10:38:57 **5** sense. Defendant can waive the right to be present.

10:40:01 **6** The little I can find so far as the circuits seem

-08:-39:-30 **7** to disagree as to whether the defendant has a right to be

-08:-39:-30 **8** present during a read-back. Ninth Circuit case, 22 F.3d, 964,

10:40:14 **9** refers to the right to be present, but the error was harmless.

-08:-39:-30 **10** And the Tenth Circuit says that the defendant does not have a

-08:-39:-30 **11** right to be present during replay, 988 F.2d, 901.

-08:-39:-30 **12** I'm going to let you guys do the research.

10:40:36 **13** MR. DOUGHTEN: Mr. Mazloun will waive his right to

-08:-39:-30 **14** be present, just to make the record clear. So we have

10:40:43 **15** discussed it with him, and we're reluctant to have him in here

-08:-39:-30 **16** if the jury's playing certain tapes and may look over at him

-08:-39:-30 **17** during deliberations.

-08:-39:-30 **18** THE COURT: I understand.

10:40:52 **19** MR. DOUGHTEN: He will waive it.

10:40:54 **20** MR. SOFER: I ask Your Honor to do the inquiry

-08:-39:-30 **21** with the defendant.

10:40:58 **22** THE COURT: Mr. Mazloun, you have been following

10:41:04 **23** the meander of our discussion.

-08:-39:-30 **24** Have you been following what we've been talking

-08:-39:-30 **25** about, Defendant Mazloun?

10:41:14 **1** DEFENDANT MAZLOUM: Yes.

-08:-39:-30 **2** THE COURT: I think it's highly likely the jury

-08:-39:-30 **3** will ask to have recordings replayed. I don't know if it will

-08:-39:-30 **4** be your voice or other defendants, but I think it's quite likely

-08:-39:-30 **5** they will because everyone told them they could. That must

-08:-39:-30 **6** occur in the courtroom. I don't know if you have a

-08:-39:-30 **7** Constitutional right to attend that proceeding or not. So let

10:41:41 **8** me assume that you do. That would be the maximum extension --

10:41:45 **9** the maximum protection extended to you.

-08:-39:-30 **10** Are you willing to be absent from the courtroom

10:41:51 **11** when that occurs?

10:41:53 **12** DEFENDANT MAZLOUM: Yes, Judge.

10:41:55 **13** THE COURT: Have you had a chance to talk it over

-08:-39:-30 **14** with your counsel?

-08:-39:-30 **15** DEFENDANT MAZLOUM: Yes.

-08:-39:-30 **16** THE COURT: Has anybody threatened you or made any

10:42:01 **17** threats or promises to you about that decision?

-08:-39:-30 **18** DEFENDANT MAZLOUM: No.

-08:-39:-30 **19** THE COURT: And you understand you can change your

-08:-39:-30 **20** mind if you want?

-08:-39:-30 **21** DEFENDANT MAZLOUM: Yes.

-08:-39:-30 **22** THE COURT: Whether you have a right to attend or

-08:-39:-30 **23** not, you are welcome to attend. Do you understand?

-08:-39:-30 **24** DEFENDANT MAZLOUM: I understand that.

10:42:15 **25** MR. DOUGHTEN: Thank you, Your Honor.

10:42:17 **1** MR. IVEY: Likewise with Mr. Amawi. We've had an  
10:42:20 **2** opportunity to discuss this issue with him. He is likewise  
-08:-39:-30 **3** willing to waive his attendance at any replay of audio  
10:42:28 **4** recordings. He is here in the Court if you would like to  
-08:-39:-30 **5** inquire.

10:42:31 **6** THE COURT: Mr. Amawi, you have been following what  
10:42:33 **7** we've been talking about?

10:42:34 **8** DEFENDANT AMAWI: Yes, sir.

-08:-39:-30 **9** THE COURT: And as I've indicated to Mr. Mazloun, I  
-08:-39:-30 **10** don't know whether you have a Constitutional or other right to  
10:42:43 **11** attend. You're welcome to attend if you want if tapes are  
10:42:50 **12** replayed, as I expect they will be. Do you want to be here for  
-08:-39:-30 **13** that?

-08:-39:-30 **14** DEFENDANT AMAWI: No, Your Honor.

10:42:55 **15** THE COURT: And are you giving up whatever right  
-08:-39:-30 **16** you might have to be here freely and voluntarily?

10:43:03 **17** DEFENDANT AMAWI: I'm sorry?

-08:-39:-30 **18** THE COURT: Are you giving up whatever right you  
-08:-39:-30 **19** might have voluntarily?

10:43:08 **20** DEFENDANT AMAWI: Yes. Absolutely.

-08:-39:-30 **21** THE COURT: Has anybody threatened you or made any  
10:43:12 **22** promises to you to cause you to do so?

-08:-39:-30 **23** DEFENDANT AMAWI: No.

10:43:14 **24** THE COURT: You understand if you want to you can  
10:43:16 **25** change your mind?

10:43:17 **1** DEFENDANT AMAWI: Yes, I do.

-08:-39:-30 **2** THE COURT: Okay. And you've had enough time to

-08:-39:-30 **3** talk it over with Mr. Ivey and your other lawyers to get their

10:43:27 **4** advice?

-08:-39:-30 **5** DEFENDANT AMAWI: Yes.

10:43:38 **6** MR. HARTMAN: Your Honor, on behalf of

10:43:42 **7** Mr. El-Hindi, we're not ready to make that decision one way or

-08:-39:-30 **8** another.

-08:-39:-30 **9** THE COURT: Okay.

10:43:47 **10** And somebody -- I'll try --

10:43:51 **11** MR. HARTMAN: We'll take a look, see what we can

-08:-39:-30 **12** find out.

-08:-39:-30 **13** THE COURT: I don't want to deprive anybody of the

-08:-39:-30 **14** right that they have. Candidly, if they want to be here, even

10:43:59 **15** if they, quote, don't have a right to be here, I'm willing to

10:44:04 **16** have them be here. My instinct is it's because it's a

-08:-39:-30 **17** proceeding occurring in open court in the presence of the jury

10:44:14 **18** that the defendant, if the defendant desires to be here, he can

-08:-39:-30 **19** be here. Okay.

10:44:21 **20** Okay. Anything further from the government?

10:44:23 **21** MR. SOFER: No, Your Honor.

10:44:25 **22** THE COURT: Amy, what's the status on the exhibits?

-08:-39:-30 **23** Do you have them all?

10:44:29 **24** MR. HERDMAN: That was one thing I was going to

-08:-39:-30 **25** ask. We provided exhibit books that have all the exhibits that



-08:-39:-30 **1** have been admitted into evidence. I can bring in all of the  
-08:-39:-30 **2** actual exhibits that are currently at the Federal Bureau of  
-08:-39:-30 **3** Investigation. It's going to take up almost probably both rows,  
10:44:48 **4** and I can probably go over in the next part of the audience  
10:44:52 **5** section. I could do that. What I would suggest -- this is  
10:44:56 **6** entirely up to the Court and Counsel, but what I would suggest  
-08:-39:-30 **7** is if you're comfortable with the exhibit books going back, if  
10:45:04 **8** there's a particular exhibit that the jurors want to see, for  
10:45:07 **9** instance, a gun or -- I'm just trying to think of the actual  
10:45:10 **10** physical evidence that's in the case -- if we could ask them to  
-08:-39:-30 **11** indicate via note, we could bring the actual physical evidence  
10:45:19 **12** over here. But I'm happy to --  
-08:-39:-30 **13** THE COURT: Technically they ought to be at hand  
-08:-39:-30 **14** for the jury. You've got stacks and stacks of this stuff.  
10:45:32 **15** MR. SOFER: Judge, they are sort of at hand.  
10:45:35 **16** Obviously, the guns are a good example.  
10:45:39 **17** THE COURT: That's --  
-08:-39:-30 **18** MR. SOFER: They can't really sit here unattended  
10:45:43 **19** without an FBI agent here. Unless Counsel or the Court  
10:45:49 **20** disagrees, we could have any item here within a few minutes.  
10:45:55 **21** It's just a question of where is the safest place and the most  
-08:-39:-30 **22** secure place to actually hold them. We certainly agree they  
-08:-39:-30 **23** should be made available at the jury's request. I'm not go --  
-08:-39:-30 **24** given the amount of space that they have and the amount of  
-08:-39:-30 **25** people that we have to have watching them, I just don't know if

10:46:12 **1** that's practical. I don't know if Counsel would be willing to

10:46:18 **2** go with the arrangement Mr. Herdman suggests or not.

-08:-39:-30 **3** THE COURT: It seems to me that any recordings,

10:46:35 **4** obviously, can be kept probably here in the conference room is

-08:-39:-30 **5** probably the best place to keep them. But what about anything

-08:-39:-30 **6** else, photographs, all that stuff?

10:46:46 **7** MR. HERDMAN: In essence, Your Honor, everything

-08:-39:-30 **8** has been photographed that's a physical piece of evidence.

10:46:52 **9** Everything's been photographed and placed into those books for

-08:-39:-30 **10** the Court. And the Court has a set; counsel has a set, and the

-08:-39:-30 **11** court reporter has a set as well. In essence, all the exhibits

-08:-39:-30 **12** are in those books. Of course it made virtual sense that they

10:47:11 **13** be photographed. This is a place holder for some of the CDs

-08:-39:-30 **14** that contain videos.

10:47:17 **15** THE COURT: Well, what do you guys want? I hadn't

-08:-39:-30 **16** thought about that.

10:47:24 **17** MR. HARTMAN: Judge, speaking on behalf of the

-08:-39:-30 **18** El-Hindi team, we wouldn't have an objection to the jury getting

-08:-39:-30 **19** the books rather than making them bring over all this evidence,

-08:-39:-30 **20** and then just instruct the jury, like Mr. Herdman said, if they

-08:-39:-30 **21** want to see a specific piece of something, the only thing we

-08:-39:-30 **22** would ask is that we -- the government go through the books

-08:-39:-30 **23** carefully and pull out anything that wasn't admitted before

10:47:48 **24** they're given.

10:47:50 **25** MR. HERDMAN: That's already been done. The books

10:47:52 **1** conform to the list that was filed last week by the government  
-08:-39:-30 **2** with respect to the admitted exhibits.

10:47:58 **3** MR. DOUGHTEN: That would be fine, Your Honor, as  
-08:-39:-30 **4** long as the jury is instructed if they want to see the actual  
10:48:03 **5** piece of evidence -- if for some reason they want to see the  
10:48:07 **6** actual evidence that they be told they can have it.

-08:-39:-30 **7** THE COURT: I think -- I would prefer that it be  
-08:-39:-30 **8** here, but I don't know where.

10:48:17 **9** MR. BOSS: I don't often come to the government's  
-08:-39:-30 **10** aid, but today I will.

10:48:23 **11** THE COURT: Do you want to go off the record?

10:48:25 **12** MR. BOSS: When we went to inspect the physical  
-08:-39:-30 **13** evidence, it's substantial. It would fill at least the jury box  
10:48:33 **14** and more of the tables and stacks. It's so much that it would  
-08:-39:-30 **15** be really difficult, I think, for them to keep it here unless  
-08:-39:-30 **16** it's really necessary.

10:48:44 **17** THE COURT: Okay. That's fine.

10:48:49 **18** Counsel for Mr. Amawi?

10:48:53 **19** MR. WITMER-RICH: That's fine if it's readily  
10:48:56 **20** available, as the government represents, for the jury if they  
-08:-39:-30 **21** want to see the physical object, we have no objection.

-08:-39:-30 **22** THE COURT: I probably should explain that to them  
10:49:06 **23** tomorrow, so somebody should be here at 9:00.

10:49:11 **24** Again, Amy, while you're upstairs, I've asked them  
-08:-39:-30 **25** that they designate one lawyer from each team to sort of be the

-08:-39:-30 **1** first lawyer for you to call if we need to have a question .

10:49:23 **2** It's up to them then to get ahold of the other counsel.

10:49:29 **3** Okay. Anything else?

10:49:35 **4** MR. SOFER: No, Judge. Thank you for your  
10:49:37 **5** patience.

**6** (Adjourned at 7:29 p.m.)

**7** - - -

**8**

**9**

**10** C E R T I F I C A T E

**11**

**12** I certify that the foregoing is a correct transcript from the  
**13** record of proceedings in the above-entitled matter.

**14**

**15** /s Tracy L. Spore \_\_\_\_\_

**16** Tracy L. Spore, RMR, CRR Date

**17**

05:32:56 **18**

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